

MAINE STATE LEGISLATURE

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Erratum:

**Page 2148 in Laws of Maine 1995, v. 3,
was excluded due to a printer's error.**

**The text of page 2148 included here
has been reformatted from the
original electronic file provided
by the Revisor's Office.**

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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J.S. McCarthy Company
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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.

This volume contains the public laws, private and special laws, resolves and constitutional resolutions enacted at the First Special Session and the Second Regular Session of the 117th Legislature, followed by a selection of significant addresses, joint resolutions and memorials. An index to the materials in this volume is located at the end of this volume. Volumes 1 and 2 were published in September 1995 and contain legislation enacted during the First Regular 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 the volume.
4. A session cross-reference table is also provided at the end of this volume 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 Special Session of the 117th Legislature is March 1, 1996 and for those passed at the Second Regular Session of the 117th Legislature is July 4, 1996. 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 1996

LEGISLATIVE STATISTICS

FIRST SPECIAL SESSION 117th Legislature

Convened	November 28, 1995
Adjourned	December 1, 1995
Days in Session	
Senate	4
House of Representatives.....	4
Legislative Documents.....	10
Carryover Bills.....	0
Public Laws.....	7
Private and Special Laws	1
Resolves	1
Constitutional Resolutions	0
Initiated Bills.....	0
Vetoed	0
Overridden.	0
Sustained	0
Pocket.....	0
Emergency Enactments.....	8
Effective Date	March 1, 1996
(unless otherwise indicated)	

SECOND REGULAR SESSION
117th Legislature

Convened	January 3, 1996
Adjourned	April 4, 1996
Days in Session	
Senate	39
House of Representatives	39
Legislative Documents	291
Carryover Bills	104
Public Laws	198
Private and Special Laws	33
Resolves	26
Constitutional Resolutions	1
Initiated Bills	3
Vetoed	0
Overridden.	0
Sustained	0
Pocket	0
Emergency Enactments	86
Effective Date	July 4, 1996
	(unless otherwise indicated)

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

CHAPTER 501

H.P. 1162 - L.D. 1595

**An Act to Increase the Number of
Washington County Commissioners
from 3 to 5**

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, currently there is not a means of replacing county commissioners who are unable to perform their duties due to illness or other incapacitating circumstances; and

Whereas, in Washington County, there is currently a county commissioner who cannot perform the duties of office; and

Whereas, this has effectively left one county commissioner district without representation, and has hampered the ability of the other county commissioners to maintain a quorum; and

Whereas, the creation of 2 more county commissioners, to be elected and serve at large, would alleviate the problem by giving all county commissioner districts more than one commissioner; 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 §66, sub-§15, as amended by PL 1993, c. 554, §1, is further amended to read:

15. Creation of Washington County Commissioner Districts. Washington County is divided into the following 3 districts.

A. Commissioner District Number 1 consists of the municipalities of Alexander, Baileyville, Baring Plantation, Calais, Charlotte, Codyville Plantation, Cooper, Crawford, Danforth, Grand Lake Stream Plantation, Meddybemps, Princeton, Robbinston, Talmadge, Topsfield, Waite and Vanceboro, Indian Township and the unorganized territory of North Washington. The term of office of the commissioner from this district expires in 1988 and every 4 years thereafter.

B. Commissioner District Number 2 consists of the municipalities of Beddington, Centerville, Cutler, Deblois, Dennysville, East Machias, Eastport, Lubec, Machiasport, Marshfield, Northfield, Pembroke, Perry, Wesley, Whiting and Whitneyville, Pleasant Point Passamaquoddy Indian Reservation and the unorganized territories of East Central Washington and North Washington. The term of office of the commissioner from this district expires in 1988 and every 4 years thereafter.

C. Commissioner District Number 3 consists of the municipalities of Addison, Beals, Cherryfield, Columbia, Columbia Falls, Harrington, Jonesboro, Jonesport, Machias, Milbridge, Roque Bluffs and Steuben. The term of office of the commissioner from this district expires in 1990 and every 4 years thereafter.

In addition to the commissioners from the districts specified in paragraphs A, B and C, 2 commissioners must be elected at large. The terms of office of the at-large commissioners expire in 1998 and every 4 years thereafter.

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

Effective November 30, 1995.

CHAPTER 502**H.P. 1150 - L.D. 1589****An Act to Implement the
Recommendations of the
Productivity Realization Task Force**

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, 1996; 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 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		
Office of the Commissioner - Administrative and Financial Services		
Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(\$33,122)	(\$42,168)
All Other	(1,500)	(1,500)
TOTAL	(34,622)	(43,668)
Provides for the deappropriation of funds from the elimination of one Senior Administrative Secretary position and related support costs. The position elimination is in accordance with the department's productivity plan.		

**Office of the Commissioner -
Administrative and Financial
Services**

Personal Services	(1,745)	(2,521)
-------------------	---------	---------

Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.

**Administration - Human
Resources**

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(57,763)	(104,969)

Provides for the deappropriation of funds from the elimination of one Administrative Secretary position, one Clerk II position and one Principal Personnel Analyst position. The positions eliminated are in accordance with the department's productivity plan.

**Administration - Human
Resources**

Personal Services	12,336	7,500
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Provides for the appropriation of funds for 2 position reorganizations that are a part of the department's productivity plans and to reflect a reduction in savings due to a change in the timing in the elimination of one Administrative Secretary position. The positions to be reorganized are 2 Employment Services Assistant positions, which will be upgraded to 2 Personnel Assistant positions.

**Administration - Human
Resources**

All Other	(8,500)	(10,000)
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Provides for the deappropriation of funds from the reduction of support costs in association with the elimination of positions in accordance with the department's productivity plan.

Administration - Human Resources

Personal Services	(2,280)	(5,621)
Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.		

Accounts and Control - Bureau of

Positions - Legislative Count	(-4.0)	(-4.0)
Personal Services	(71,076)	(127,134)
All Other	(1,500)	(1,500)
TOTAL	(72,576)	(128,634)

Provides for the deappropriation of funds from the elimination of one Clerk IV position, one Payroll Technician position, one Data Control Specialist position and one Account Clerk II position along with support costs. The position eliminations are in accordance with the department's productivity plan.

Accounts and Control - Bureau of

Personal Services	(4,300)	(7,712)
Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.		

Budget - Bureau of the

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(80,755)	(83,268)
All Other	(3,000)	(1,500)
TOTAL	(83,755)	(84,768)

Provides for the deappropriation of funds from the elimination of one Budget Examiner position and one Word Processing Operator position along with All Other support costs. The positions eliminated are in accordance with the department's productivity plans.

Budget - Bureau of the

Personal Services	(1,444)
Provides for the deappropriation of funds resulting from undervaluing savings that were deallotted on Financial Order 000329F5 in fiscal year 1995-96.	

Budget - Bureau of the

Personal Services	(4,915)	(4,868)
Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.		

Buildings and Grounds Operations

Positions - Legislative Count	(-13.0)	(-13.0)
Personal Services	(221,994)	(350,937)
All Other	(4,500)	(4,500)
TOTAL	(226,494)	(355,437)

Provides for the deappropriation of funds from the elimination of 8 Custodial Worker I positions, 2 Custodial Worker II positions, 2 Custodial Worker III positions and one Laborer II position along with supporting All Other. These position eliminations are part of the department's productivity plan.

Buildings and Grounds Operations

Personal Services	(10,001)	(19,151)
Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.		

Financial and Personnel Services - Division of

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(34,457)	(30,724)
All Other	(1,500)	(1,500)
TOTAL	(35,957)	(32,224)

Provides for the deappropriation of funds from the elimination of one Accountant I position and related support costs. The position elimination is in accordance with department's productivity plan.

Financial and Personnel Services - Division of

Personal Services 3,045

Provides for the appropriation of funds in order to correct the over-calculation of retirement savings related to the elimination of one Accountant I position.

Financial and Personnel Services - Division of

Personal Services (1,900) (2,057)

Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.

Public Improvements - Planning - Construction - Administration

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(36,823)	(62,001)
All Other	(1,500)	(1,500)
TOTAL	(38,323)	(63,501)

Provides for the deappropriation of funds from the elimination of one Clerk Typist III position and one Accountant II position and related support costs.

Public Improvements - Planning - Construction - Administration

All Other (1,500) (1,500)

Provides for the deappropriation of funds from the reduction of All Other costs in addition to the amount originally identified through productivity reductions.

Public Improvements - Planning - Construction - Administration

Personal Services (2,005) (3,992)

Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.

Purchases - Division of

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(20,596)	(32,322)
All Other	(1,500)	(1,500)
TOTAL	(22,096)	(33,822)

Provides for the deappropriation of funds from the elimination of one Assistant Buyer position. The position elimination is in accordance with the department's productivity plan.

Purchases - Division of

Personal Services (1,260) (1,923)

Provides for the deappropriation of funds related to the unfunded liability portion of the retirement rate.

Executive Branch Departments and Independent Agencies - Statewide

Personal Services 539,554 1,007,161

Provides for the appropriation of funds for the unfunded liability portion of the Personal Services savings achieved through productivity plans.

Executive Branch Departments and Independent Agencies - Statewide

Personal Services 144,565 481,250

Provides for the appropriation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

All Other	(835,540)	(143,240)
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Provides for the
deappropriation of funds
transferred to the
Department of Human
Services for equipment
and technology upgrades.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	7,994,725	14,531,607
All Other	(677,270)	(2,640,772)
Capital Expenditures		(58,600)

TOTAL	7,317,455	11,832,235
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Provides for the
appropriation of funds
identified as productivity
savings under the
provisions of Public Law
1995, chapter 99, Part D.

Taxation - Bureau of

Positions - Legislative Count	(-47.0)	(-47.0)
Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(1,036,234)	(1,731,530)

Provides for the
deappropriation of funds
from the elimination of 2
Account Clerk I positions,
2 Clerk II positions, 5
Clerk III positions, 2
Clerk IV positions, one
Clerk Typist I position, 6
Clerk Typist II positions,
2 Clerk Typist III
positions, one Computer
Programmer position, one
Data Entry Specialist
position, 3 Data Entry
Operator positions, 10
seasonal Data Entry
Operator positions, one
Data Control Specialist
position, one District Tax
Audit Manager position, 3
Principal Revenue Agent
positions, one Property
Appraiser I position, 2
Revenue Agent positions,
one Receptionist position,
2 Senior Tax Examiner
positions, one Special
Investigator position, one
Taxation Division

Assistant Executive
position, one Tax
Enforcement Officer
position, 3 Tax Examiner
positions, 2 Tax Section
Manager positions and 3
Taxpayer Assistance
Specialist positions.

Taxation - Bureau of

Personal Services	(22,154)
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Provides for the
deappropriation of funds
resulting from
undervaluing vacancy
savings deallotted by
Financial Order 000329F5
in fiscal year 1995-96.

Taxation - Bureau of

Personal Services	(47,149)	(107,072)
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Provides for the
deappropriation of funds
related to the unfunded
liability portion of the
retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

5,464,442	10,439,936
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**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF****Administration - Agriculture**

Positions - Legislative Count	(-2.5)	(-2.5)
Personal Services	(60,635)	(122,161)
All Other	(38,800)	(66,600)
Capital Expenditures	(12,740)	(23,740)

TOTAL	(112,175)	(212,501)
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Provides for the
deappropriation of funds
through the transfer of
one Clerk Typist III
position and one part-time
Department Information
Systems Manager position
to the Office of Planning,
Policy, Legislation and
Information Services;
class exchanges of one
Director of Special
Projects position for 1/2
of a split-funded Planning
and Research Associate II
position in the Office of
Agricultural, Natural and

Rural Resources and 1/2 of a split-funded Senior Planner position in the Office of Planning, Policy, Legislation and Information Services; transfer of information services, pull events, and agricultural bargaining board activities to the Office of Planning, Policy, Legislation and Information Services and transfers agricultural shop building maintenance activities to Marketing Services - Agriculture.

Office of Agricultural, Natural and Rural Resources

Positions - Legislative Count	(4.0)	(4.0)
Personal Services	103,578	194,832
All Other	7,684	11,584
TOTAL	111,262	206,416

Provides for the appropriation of funds for the class exchange of one Director, Bureau of Production position to one Director of Agricultural, Natural and Rural Resources position, and the establishment of one Administrative Secretary position, one Agricultural Compliance Inspector position and one Planning and Research Associate II position. Provides associated All Other funds in accordance with the approved restructuring plan.

Agricultural Production

Positions - Legislative Count	(-4.5)	(-4.5)
Positions - Other Count	(1.0)	(1.0)
Personal Services	(114,493)	(221,891)
All Other	(41,600)	(143,700)
TOTAL	(156,093)	(365,591)

Provides for the deappropriation of funds for the class exchange of one Director, Bureau of Agricultural Production position for one Director, Office of Agricultural, Natural and Rural

Resources position in the Office of Agricultural, Natural and Rural Resources; reclassifies one Director Production Development position to Business Development Specialist position in the Division of Market and Production Development; transfers one Clerk Typist III position and one Agricultural Development Agent position to the Division of Market and Production Development; transfers one Administrative Secretary position and one Agricultural Compliance Inspector position to the Office of Agricultural, Natural and Rural Resources; transfers one State Horticulturist position and 1/2 of a split-funded Director Plant Industry position to the Division of Plant Industry; reclassifies 2 Veterinarian Supervisor positions to 2 Veterinarian positions; and transfers in 3 Dairy Inspector positions and one seasonal Veterinarian position. Transfers associated All Other and Capital funds in accordance with the approved restructuring.

Agricultural and Rural Resource Development

Positions - Legislative Count	(-0.5)	(-0.5)
Personal Services	(14,524)	(25,497)
All Other	(1,624)	(3,264)
TOTAL	(16,148)	(28,761)

Provides for the deappropriation of funds through the transfer of 1/2 of a split-funded Planning and Research Associate II position and associated All Other funds to the Office of Agricultural, Natural and Rural Resources.

Public Services - Agriculture

Positions - Legislative Count	(-27.0)	(-27.0)
Personal Services	(577,271)	(1,119,002)
All Other	(2,200)	(11,200)

TOTAL	(579,471)	(1,130,202)
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Provides for the deappropriation of funds from the elimination of one Clerk Stenographer III position, one Supervisor Dairy Inspector position and one Consumer Foods Supervisor position; class exchanges one Director, Bureau of Public Service position for one Director, Office of Planning, Policy, Legislation and Information Services position in the Office of Planning, Policy, Legislation and Information Services; class exchanges one Clerk Typist III position for 1/2 of a split-funded Clerk Typist II position in Marketing Services - Agriculture; class exchanges one Director of Inspection position for one Director of Production and Marketing Development position in the Division of Production and Marketing Development; and transfers 3 Dairy Inspector positions to Agricultural Production. Transfers 8 Weights and Measures Inspector positions, one Weights and Measures Supervisor position, one Metrologist position and 8 Inspector Consumer Foods positions to Marketing Services - Agriculture.

Harness Racing Commission

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(20,000)	(44,300)
All Other	(650)	(1,300)

TOTAL	(20,650)	(45,600)
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Provides for the deappropriation of funds

through the transfer of one seasonal Veterinarian position to Agricultural Production and related All Other.

Marketing Services - Agriculture

Positions - Legislative Count	(12.5)	(12.5)
Positions - Other Count	(-2.0)	(-2.0)
Personal Services	255,178	414,668
All Other	(16,100)	(28,000)

TOTAL	239,078	386,668
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Provides for the appropriation of funds from the elimination of 2 seasonal Clerk Typist I positions, one Clerk Stenographer III position, one Quality Compliance Inspector position, one Produce Inspector Manager position; transfers one Planning and Research Associate I position to the Office of Planning, Policy, Legislation and Information Services; transfers one Planning and Research Associate II position to the Division of Production and Marketing Development; reclassifies one Director of Market Development position to one Business Development Specialist position transferred to the Division of Production and Marketing Development; and class exchanges one Agricultural Quality Assurance Assistant Director position for one Quality Assurance Program Manager position. Transfers in 1/2 of a split-funded Clerk Typist II position, 8 Weights and Measures Inspector positions, one Weights and Measures Supervisor position, one Metrologist position and 8 Inspector Consumer Foods positions from the Bureau of Public Service.

Division of Plant Industry

Positions - Legislative Count	(1.5)	(1.5)
Personal Services	47,745	94,426
All Other	18,700	37,900
TOTAL	66,445	132,326

Provides for the appropriation of funds for 1/2 of a split-funded Director Plant Industry position and one State Horticulturist position. Provides All Other and Capital funds in accordance with the approved restructuring plan.

Office of Planning, Policy, Legislation and Information Services

Positions - Legislative Count	(4.0)	(4.0)
Personal Services	106,784	204,417
All Other	41,000	70,800
Capital Expenditures	12,740	23,740
TOTAL	160,524	298,957

Provides for the appropriation of funds for one Director Office of Planning, Policy, Legislation and Information Services position, class exchanged from one Director Bureau of Public Services position, 1/2 of a split-funded Department Information Systems Manager position, 1/2 of a split-funded Senior Planner position, one Clerk Typist III position and one Planning and Research Associate I position and related All Other and Capital costs.

Division of Market and Production Development

Positions - Legislative Count	(6.0)	(6.0)
Personal Services	155,510	306,062
All Other	33,590	61,780
TOTAL	189,100	367,842

Provides for the appropriation of funds for one Director, Division of Market and Production

Development position class exchanged from one Director of Inspections position, 2 Business Development Specialist positions class exchanged from one Director Production Development and one Director Market Development position, respectively, one Secretary position, one Agricultural Development Agent position, one Planning and Research Associate II position and related All Other and Capital funds in accordance with the approved restructuring plan.

Seed Potato Board

All Other	72,000
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Provides for the appropriation of funds that were formerly appropriated from the Bureau of Agricultural Production as part of a restructuring plan.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

TOTAL	(118,128)	(318,446)
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CONSERVATION, DEPARTMENT OF**Administrative Services - Conservation**

Positions - Legislative Count	(8.0)	(8.0)
Personal Services	133,131	409,996
All Other	6,250	15,307
TOTAL	139,381	425,303

Provides for the appropriation of funds through class exchange for 1/2 of a split-funded Information System Specialist position, the upgrade of one Information Systems Manager position from half-time to full-time; the elimination of one Clerk Stenographer III position; the transfer of one Programmer Analyst

position and one Forest Information Center Manager position from the Policy Planning and Information program, General Fund and the transfer of one Forest Fire Plans and Training Coordinator position, one Storekeeper II position; and one Supervisor Radio Communications position and 3 Communications Technician positions from the Forest Fire Control program, General Fund.

**Forest Fire Control -
Division of**

Positions - Legislative Count	(-11.5)	(-11.5)
Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(229,307)	(513,752)
All Other	(10,181)	(19,355)
TOTAL	(239,488)	(533,107)

Provides for the deappropriation of funds from the elimination of one Forest Ranger IV position, one Forest Ranger III position, one Clerk Typist II position, one Radio Mechanic position, one Clerk II position, 5 Laborer I positions, one Laborer II position, one Storekeeper II position and the transfer of one Forest Fire Plans and Training Coordinator position, one Storekeeper II position, one Supervisor for Radio Communications position and 3 Communications Technician positions to the Administrative Services - Conservation program, General Fund.

**Forest Management, Utilization
and Marketing**

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(73,399)	(156,583)
All Other	(8,339)	(8,339)
TOTAL	(81,738)	(164,922)

Provides for the deappropriation of funds from the elimination of

one Director Forest Management and Utilization position, one Forester II position and one Forester I position and associated All Other costs.

Geological Survey

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(30,180)	(58,954)
All Other	(1,500)	(1,500)
TOTAL	(31,680)	(60,454)

Provides for deappropriation of funds from the elimination of one Resource Administrator position and associated All Other costs.

Insect and Disease Management

Positions - Legislative Count	(-1.0)
Personal Services	(22,728)

Provides for the deappropriation of funds from the elimination of one Entomologist Technician position at the end of the first quarter in fiscal year 1996-97.

**Land Use Regulation
Commission**

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(69,228)	(118,064)
All Other	(1,500)	(1,500)
TOTAL	(70,728)	(119,564)

Provides for deappropriation of funds from elimination of one Planning and Research Associate II position, one Environmental Specialist II position and one Word Processing Operator position and associated All Other costs, and for the upgrade of one LURC Division Supervisor position to a LURC Division Manager position.

Parks - General Operations

Positions - Legislative Count	(-2.5)	(-2.5)
Positions - Other Count	(-6.5)	(-6.5)

Personal Services	(200,927)	(251,431)
All Other	23,271	27,003
TOTAL	(177,656)	(224,428)

Provides for the deappropriation of funds from the elimination of one Historic Site Specialist position, 2 Park Manager II positions, 4 State Park Regional Supervisor positions, 2 State Park Assistant Regional Supervisor positions, one Clerk Stenographer III position, 5 Maintenance Mechanic positions, 3 Assistant Park Ranger positions, 4 Park Receptionist positions, 3 Clerk Typist III positions, and 3 Laborer I positions and class exchanges for one Engineering Technician IV position, one Assistant Regional Parks Manager position, one Regional Parks Manager position, 2 Maintenance Mechanic positions, 2 Assistant Park Ranger positions, 2 Clerk Typist II positions and one Planning and Research Associate II position; and for the appropriation of funds from the transfer in of one Director Real Property Management position from the Engineering and Realty program, General Fund.

Policy Planning and Information

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(70,066)	(139,203)
All Other	(4,833)	(4,716)
TOTAL	(74,899)	(143,919)

Provides for the deappropriation of funds from the elimination of one Clerk Typist III position and the transfer of one Programmer Analyst position and one Manager Forest Information Center

position to the Administrative Services - Conservation program, General Fund.

Engineering and Realty

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(27,563)	(59,838)
All Other	(2,007)	(5,739)
TOTAL	(29,570)	(65,577)

Provides for the deappropriation of funds through the transfer of one Director of Real Property Management position and associated All Other costs to the Parks - General Operations program.

DEPARTMENT OF CONSERVATION

CORRECTIONS, DEPARTMENT OF

Administration - Corrections

Positions - Legislative Count	(4.0)	(7.5)
Personal Services	82,531	333,358
All Other	4,350	
TOTAL	86,881	333,358

Provides for the appropriation of funds through the elimination of one Clerk Stenographer III position, one Secretary position and one Correctional Classification Coordinator position in fiscal year 1995-96 and fiscal year 1996-97 and reducing the hours of one Affirmative Action Coordinator position in fiscal year 1996-97 from 40 hours to 20 hours per week. Three positions are established in fiscal year 1995-96 and fiscal year 1996-97 and 3 additional positions are established in fiscal year 1996-97 through class exchange. Funds are provided to reflect the transfer of 4 positions in fiscal year 1995-96 and fiscal year 1996-97 and one additional position in fiscal year 1996-97 from other departmental programs. Positions are on file with the Bureau of the Budget. All Other funds are provided to implement voice mail.

Administration - Corrections

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(44,423)	(44,427)
All Other	(1,500)	
TOTAL	(45,923)	(44,427)

Provides for the deappropriation of funds from the elimination of one Community Correctional Services Coordinator position deallotted by Financial Order 000329F5 in fiscal year 1995-96.

Personal Services 21,441 52,148

Provides for the appropriation of funds through the transfer of one Correctional Officer I position and one Correctional Officer II position from the Correctional Center program, and savings resulting from moving from 10-hour to 8-hour shifts.

Charleston Correctional Facility

Personal Services (15,328)

Provides for the deappropriation of funds through a transfer to the department's departmentwide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Bangor Pre-Release Center

Personal Services (4,743)

Provides for the deappropriation of funds through a transfer to the department's departmentwide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Charleston Correctional Facility

Positions - Legislative Count	(-4.0)	(-4.0)
Personal Services	(144,860)	(146,404)
All Other	(6,000)	

TOTAL (150,860) (146,404)

Provides for the deappropriation of funds from the elimination of one Correctional Trades Instructor position, one Vocational Trades Instructor position, one Clerk Typist III position and one Correctional Officer III position deallotted by Financial Order 000329F5 in fiscal year 1995-96.

Bangor Pre-Release Center

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	(15,181)	(22,321)

Provides for the deappropriation of funds through the transfer of one Correctional Officer II position from the Charleston Correctional Facility program and savings resulting from moving from 10-hour to 8-hour shifts.

Charleston Correctional Facility

Positions - Legislative Count	(-30.0)	(-30.0)
Personal Services	(368,796)	(1,195,011)
All Other	(27,062)	(80,394)
Capital Expenditures	(16,400)	

TOTAL (395,858) (1,291,805)

Provides for the deappropriation of funds due to the downsizing of the Charleston Correctional Facility, the elimination of positions,

Central Maine Pre-Release Center

Personal Services (9,865)

Provides for the deappropriation of funds through a transfer to the department's departmentwide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Central Maine Pre-Release Center

Positions - Legislative Count (2.0) (2.0)

moving from 10-hour to 8-hour shifts, the transfer of one Correctional Officer II position to Bangor Pre-Release Center and one Correctional Maintenance Mechanic position and one Vocational Trades Instructor position to the Administration - Corrections program. Positions are on file with the Bureau of the Budget. Funds are provided to establish, through class exchange, one Correctional Trades Instructor position in fiscal year 1995-96 and fiscal year 1996-97 and one additional Correctional Trades Instructor position in fiscal year 1996-97.

Correctional Services

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(9,720)	(30,915)

Provides for the deappropriation of funds through the transfer of one Clerk Stenographer II position to the Maine Youth Center program.

Correctional Center

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(27,737)	(27,468)
All Other	(1,500)	

TOTAL	(29,237)	(27,468)
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Provides for the deappropriation of funds from the elimination of one Account Clerk I position deallotted by Financial Order 000329F5 in fiscal year 1995-96.

Correctional Center

Personal Services		(155,473)
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Provides for the deappropriation of funds through a transfer to the department's departmentwide account to control and monitor the expenditure of funds for

unscheduled emergency overtime.

Correctional Center

Positions - Legislative Count	(-69.0)	(-69.0)
Personal Services	(786,848)	(2,437,362)
All Other	(125,150)	(244,875)

TOTAL	(911,998)	(2,682,237)
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Provides for the deappropriation of funds due to the downsizing of the Maine Correctional Center, from the elimination of positions, the transfer of one Correctional Officer I position to Other Special Revenue funds, the transfer of one Correctional Officer I position and one Correctional Officer II position to the Central Maine Pre-Release program, and moving from 10-hour to 8-hour shifts. Positions are on file with the Bureau of the Budget. Funds are provided for the reclassification of one Correctional Caseworker position to a Psychiatric Social Worker position and one Correctional Officer II position to a Correctional Officer III position.

Departmentwide

Personal Services	436,407	440,368
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Provides for the appropriation of funds to offset the deappropriation relating to vacant positions in Public Law 1995, chapter 368, due to the deallotment of those funds by Financial Order 000329F5 in fiscal year 1995-96 in each affected account.

Departmentwide

Personal Services		547,097
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Provides for the appropriation of funds through a transfer from

departmental accounts to control and monitor the expenditure of funds for unscheduled emergency overtime.

Departmentwide

Personal Services 20,000

Provides for the appropriation of funds for overtime costs related to the relocation of inmates to accomplish downsizing of adult institutions.

Downeast Correctional Facility

Personal Services (29,739)

Provides for the deappropriation of funds through a transfer to the department's department-wide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Downeast Correctional Facility

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(42,227)	(42,650)
All Other	(1,500)	
TOTAL	(43,727)	(42,650)

Provides for the deappropriation of funds from the elimination of one Training Center Manager position deallotted by Financial Order 000329F5 in fiscal year 1995-96.

Downeast Correctional Facility

Positions - Legislative Count	(4.0)	(5.0)
Personal Services	22,426	101,842
All Other	20,150	34,875
TOTAL	42,576	136,717

Provides for the appropriation of funds to establish, through class exchange, one Correctional Officer III position, one Correctional Cook position and 2 Correctional Maintenance Mechanic positions in fiscal year 1995-96 and

fiscal year 1996-97 and one Training Center Manager position in fiscal year 1996-97. Also reflects savings resulting from moving from 10-hour to 8-hour shifts. All Other funds are provided due to an increase in the prisoner population.

Food - Charleston Correctional Facility

All Other (16,047) (31,667)

Provides for the deappropriation of funds from food savings.

Food - Maine Correctional Center

All Other (35,000) (127,590)

Provides for the deappropriation of funds from food savings and through the transfer of funds to the Food - Central Maine Pre-Release Center program, General Fund to reflect the food costs for that program in a separate account.

Food - Central Maine Pre-Release Center

All Other 52,590

Provides for the appropriation of funds through the transfer of funds from the Food-Maine Correctional Center program, General Fund to reflect the food costs for the Central Maine Pre-Release Center in a separate account.

Probation and Parole

Positions - Legislative Count	(-2.0)	(-3.0)
Personal Services	(104,203)	(136,050)
All Other	64,185	15,150
TOTAL	(40,018)	(120,900)

Provides for the deappropriation of funds from the elimination of one Director of Probation

and Parole position, the transfer of one Account Clerk I position in fiscal year 1995-96 and fiscal year 1996-97 and one Administrative Secretary position to the Administration - Corrections program, General Fund in fiscal year 1996-97 and salary savings from keeping two Probation Officer positions vacant until April 1, 1996. Funds are provided for the reclassification of 2 Assistant Director of Probation and Parole positions to Regional Correctional Administrator positions in fiscal year 1996-97. All Other funds are provided for space renovations and communication technology such as voice mail.

State Prison

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(89,890)	(89,564)
All Other	(4,500)	
TOTAL	(94,390)	(89,564)

Provides for the deappropriation of funds from the elimination of one Guard Sergeant position and 2 Clerk Typist II positions deallotted by Financial Order 000329F5 in fiscal year 1995-96.

State Prison

Personal Services		(276,188)
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Provides for the deappropriation of funds through a transfer to the department's department-wide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

State Prison

Positions - Legislative Count	(-15.0)	(-14.0)
Personal Services	(279,523)	(683,820)

All Other	(9,000)	(18,000)
TOTAL	(288,523)	(701,820)

Provides for the deappropriation of funds from the elimination of 7 Guard positions, one Correctional Caseworker position, one Guard Captain position, one Deputy Warden position, one Librarian position and one Clerk Typist II position; the transfer of one Guard position to Other Special Revenue funds, one Wood Products Manager position to Prison Industries funds and one Information System Support Specialist position to the Administration - Corrections program; the reclassification of 4 Guard positions to Guard Sergeant positions, moving from 10-hour to 8-hour shifts, and in fiscal year 1996-97 the establishment of one Correctional Trades Instructor position through class exchange.

Warren Correctional Facility

Personal Services		(29,119)
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Provides for the deappropriation of funds through a transfer to the department's department-wide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Warren Correctional Facility

Positions - Legislative Count	(-5.0)	(-5.0)
Personal Services	(169,539)	(308,489)
All Other	(3,750)	(7,500)
TOTAL	(173,289)	(315,989)

Provides for the deappropriation of funds from the elimination of one Secretary position, 4 Guard positions, moving from 10-hour to 8-hour

shifts, and through reductions in All Other expenses.

Youth Center - Maine

Positions - Legislative Count	(-5.0)	(-5.0)
Personal Services	(212,799)	(215,356)
All Other	(7,500)	
TOTAL	(220,299)	(215,356)

Provides for the deappropriation of funds from the elimination of one Correctional Cook position, one Correctional Caseworker position, one Librarian/Teacher position, one Teacher position and one Psychologist I position deallotted by Financial Order 000329F5 in fiscal year 1995-96.

Youth Center - Maine

Personal Services		(26,642)
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Provides for the deappropriation of funds through a transfer to the department's department-wide account to control and monitor the expenditure of funds for unscheduled emergency overtime.

Youth Center - Maine

Positions - Legislative Count	(-2.0)	(-11.0)
Personal Services	618,590	(397,752)
All Other	(8,250)	1,816,297
TOTAL	610,340	1,418,545

Provides for the appropriation of funds from the elimination of 3 positions in fiscal year 1995-96 and fiscal year 1996-97 and 9 additional positions in fiscal year 1996-97 and through reductions in All Other expenses. Positions are on file with the Bureau of the Budget. Funds are provided for unbudgeted overtime costs in fiscal year 1995-96 and the transfer of one Clerk Stenographer II position

from the Correctional Services program in both fiscal years. All Other funds are provided in fiscal year 1996-97 for mental health programming and as match to cover the cost of outsourcing a major portion of the Maine Youth Center program.

**DEPARTMENT OF CORRECTIONS
TOTAL**

(1,252,425)	(3,457,387)
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DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF**Administration - Defense and Veterans' Services**

Positions - Legislative Count	(-3.5)	(-3.5)
Personal Services	(75,840)	(149,257)

Provides for the deappropriation of funds through the transfer of one Personnel Specialist position and one Accountant III position; and for the elimination of one Director of Administrative Services position, and one part-time Accountant I position by consolidating the administrative services within the Department of Defense and Veterans' Services and the Department of Public Safety.

**Administration - Maine
Emergency Management
Agency**

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(21,806)	(20,620)
All Other	(751)	(751)

TOTAL	(22,557)	(21,371)
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Provides for the deappropriation of funds from the elimination of one vacant Emergency Management Operations Officer position.

Dam Safety Program

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(50,730)	(47,718)

Provides for the deappropriation of funds from the elimination of one Civil Engineer II position.			TOTAL	(29,856)	(33,795)
Military Training and Operations			Provides for the deappropriation of funds from the elimination of one vacant Administrative Secretary position and related All Other.		
Positions - Legislative Count	(-2.0)	(-2.0)	Administrative Services Unit		
Personal Services	(60,972)	(54,410)	Positions - Legislative Count	(-1.0)	(-1.0)
All Other	(3,000)	(3,000)	Personal Services	(61,180)	(55,115)
TOTAL	(63,972)	(57,410)	All Other	(789)	(789)
Provides for the deappropriation of funds from the elimination of one Clerk Typist III position and one Maintenance Mechanic position.			TOTAL	(61,969)	(55,904)
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES			Provides for the deappropriation of funds from the elimination of one vacant Personnel Manager position and related All Other.		
TOTAL	(213,099)	(275,756)	Blind and Visually Impaired - Division for the		
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			Positions - Legislative Count	(-1.5)	(-1.5)
Administration - Economic and Community Development			Personal Services	(66,046)	(60,773)
Positions - Legislative Count	(-2.0)	(-2.0)	All Other	(3,658)	(3,658)
Personal Services	(42,657)	(82,985)	TOTAL	(69,704)	(64,431)
All Other	(3,000)	(3,000)	Provides for the deappropriation of funds from the elimination of one vacant part-time Visual Handicapped Child Counselor position and one vacant Rehabilitation Counselor II position and related All Other.		
Provides for the deappropriation of funds from the elimination of one Information Systems Support Specialist II position, one Personnel Specialist position and All Other savings, as part of the Productivity Realization Task Force administration cluster plan.			Division of Finance		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			Positions - Legislative Count	(-1.0)	(-1.0)
TOTAL	(45,657)	(85,985)	Personal Services	(34,296)	(32,209)
EDUCATION, DEPARTMENT OF			All Other	(620)	(620)
Administrative Office of the Commissioner			TOTAL	(34,916)	(32,829)
Positions - Legislative Count	(-1.0)	(-1.0)	Provides for the deappropriation of funds from the elimination of one vacant Accountant II position and related All Other.		
Personal Services	(28,894)	(32,833)	Governor Baxter School for the Deaf		
All Other	(962)	(962)	Positions - Legislative Count	(-3.0)	(-3.0)
			Personal Services	(114,747)	(107,607)
			All Other	(1,500)	(1,500)

TOTAL	(116,247)	(109,107)	Planning Office		
Provides for the deappropriation of funds from the elimination of one vacant Program Manager Deaf position, one vacant Teacher Deaf position and one vacant Building Custodian position and related All Other.			Positions - Legislative Count	(-1.0)	(-1.0)
			Personal Services	(32,009)	(36,337)
			All Other	(1,500)	(1,500)
			TOTAL	(33,509)	(37,837)
			Provides for the deappropriation of funds from the elimination of one Accountant I position as part of the administrative cluster recommended by the Productivity Realization Task Force.		
Division of Higher Education			Office of Substance Abuse		
Positions - Legislative Count	(-1.0)	(-1.0)	Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(58,835)	(56,041)	Personal Services	(29,403)	(29,058)
All Other	(933)	(933)	All Other	(1,500)	(1,500)
TOTAL	(59,768)	(56,974)	TOTAL	(30,903)	(30,558)
Provides for the deappropriation of funds from the elimination of one vacant Education Specialist III position and related All Other.			Provides for the deappropriation of funds from the elimination of one Clerk Typist II position and related All Other.		
Rehabilitation Services			EXECUTIVE DEPARTMENT TOTAL	(90,645)	(95,231)
Positions - Legislative Count	(-1.0)	(-1.0)	HUMAN SERVICES, DEPARTMENT OF		
Personal Services	(35,473)	(36,789)	Administration - Human Services		
All Other	(1,500)	(1,500)	All Other	50,000	
TOTAL	(36,973)	(38,289)	Provides for the appropriation of funds for air quality repairs for 221 State Street.		
Provides for the deappropriation of funds from the elimination of one vacant Rehabilitation Counselor II position and related All Other.			Administration - Human Services		
DEPARTMENT OF EDUCATION TOTAL	(409,433)	(391,329)	Positions - Legislative Count	(-6.5)	(-6.5)
EXECUTIVE DEPARTMENT			Personal Services	(210,256)	(258,641)
Driver Education and Evaluation Program - Substance Abuse			All Other	(9,750)	(12,000)
Positions - Legislative Count	(-1.0)	(-1.0)	TOTAL	(220,006)	(270,641)
Personal Services	(24,954)	(25,557)	Provides for the deappropriation of funds from the elimination of 2 Clerk Typist II positions, one Clerk III position, one part-time Account Clerk I position, one Accountant I position, one Auditor I position and one Staff		
All Other	(1,279)	(1,279)			
TOTAL	(26,233)	(26,836)			
Provides for the deappropriation of funds from the elimination of one Clerk Typist II position and related All Other.					

Development Specialist IV position and related All Other.			Specialist position, one Social Services Program Specialist II position, one Clerk Typist III position, 5 Clerk Typist II positions, one Counsel position, and related All Other.		
Administration - Human Services					
All Other	30,000	60,000			
Provides for the appropriation of funds for the partial outsourcing of data entry.			Administration - Income Maintenance		
			All Other	358,000	1,642,000
Administration - Regional - Human Services			Provides for appropriation of funds to automate the client eligibility system in accordance with the recommendation of the Productivity Realization Task Force.		
Positions - Legislative Count	(-4.0)	(-4.0)			
Personal Services	(97,837)	(103,044)			
All Other	(6,000)	(6,000)			
TOTAL	(103,837)	(109,044)	Administration - Social Services		
Provides for the deappropriation of funds from the elimination of one Human Services Aide II position, one Clerk Typist II position, one Stores Clerk position, and one Switchboard Operator position and related All Other.			Positions - Legislative Count	(-13.0)	(-16.0)
			Personal Services	(432,018)	(640,273)
			All Other	(14,250)	(24,000)
			TOTAL	(446,268)	(664,273)
Administration - Regional - Human Services			Provides for the deappropriation of funds from the elimination of one Clerk Typist II position, one Management Analyst I position, 2 Community Care Worker positions, 4 Social Services Program Specialist II positions, 2 Social Services Program Specialist I positions, one Account Clerk II position, one Clerk Typist III position, one Director, Administrative Services, and related All Other. In addition, one Clerk Stenographer II position and 2 Clerk Typist II positions will be eliminated in fiscal year 1996-97.		
All Other		72,500			
Provides for the appropriation of funds for a new telephone system in the Portland Office.			Administration - Social Services		
			All Other		180,000
Administration - Regional - Human Services			Provides for the appropriation of funds for a reengineering study.		
All Other		118,800	Administration - Social Services		
Provides for the appropriation of funds for voice mail in the regional offices.			All Other	459,300	524,700
Administration - Income Maintenance					
Positions - Legislative Count	(-9.0)	(-9.0)			
Personal Services	(244,346)	(286,514)			
All Other	(12,750)	(13,500)			
TOTAL	(257,096)	(300,014)			
Provides for the deappropriation of funds from the elimination of one Income Maintenance					

Provides for the appropriation of funds for the Maine Automated Child Welfare Information System (MACWIS).			positions, 3 Human Services Caseworker Supervisor positions, 2 full-time and one part-time Clerk Typist II positions, one part-time Social Service Program Specialist II position and related All Other.		
Aid to Families with Dependent Children			Elder and Adult Services - Bureau of		
All Other	(125,000)	(500,000)	All Other	(10,000)	(20,000)
Provides for the deappropriation of funds due to the Child Support Enforcement Task Force.			Provides for the deappropriation of funds from the transfer of costs, for managing estates of wards, to those estates.		
Child Welfare Services			Elder and Adult Services - Bureau of		
Positions - Legislative Count	(-1.0)	(-1.0)	Capital Expenditures		75,000
Personal Services	(39,124)	(39,911)	Provides for the appropriation of funds to purchase laptop computers for adult protective services caseworkers.		
All Other	(1,500)	(1,500)	Health - Bureau of		
TOTAL	(40,624)	(41,411)	Positions - Legislative Count	(-5.0)	(-5.5)
Provides for the deappropriation of funds from the elimination of one Social Services Program Specialist I position and related All Other.			Personal Services	(206,411)	(228,516)
Departmentwide			All Other	(8,175)	(8,850)
Personal Services	1,800,000	1,800,000	TOTAL	(214,586)	(237,366)
Provides for the appropriation of funds to offset the deappropriation in Public Law 1995, chapter 368.			Provides for the deappropriation of funds from the elimination of one 8-hours per week Public Health Nurse II position, one full-time and one part-time Sanitary Engineer III position, 2 Clerk Typist II positions, one Stores Clerk position and related All Other. One Assistant Director Health Engineering position will be reduced from full-time to part-time status. One part-time Sanitary Engineer III is eliminated in fiscal year 1996-97.		
Elder and Adult Services - Bureau of			Health Planning and Development		
All Other		50,000	Positions - Legislative Count	(-3.0)	(-3.0)
Provides for the appropriation of funds to purchase software for adult protective services case management.			Personal Services	(98,862)	(127,585)
Elder and Adult Services - Bureau of			All Other	(3,750)	(4,500)
Positions - Legislative Count	(-8.0)	(-8.0)			
Personal Services	(241,122)	(344,874)			
All Other	(9,750)	(13,500)			
TOTAL	(250,872)	(358,374)			
Provides for the deappropriation of funds from the elimination of 2 Social Service Manager II					

TOTAL	(102,612)	(132,085)	Services Aide III positions, one part-time Clerk Typist I position, one Comprehensive Health Planner I position and related All Other.		
Provides for the deappropriation of funds from the elimination of one Director, Division of Planning position, one Planning and Research Associate II position and one Clerk Typist III position and related All Other.			Medical Care Administration		
			All Other	18,240	18,240
			Provides for the appropriation of funds for imaging of documents for storage.		
Income Maintenance - Regional			Medical Care Administration		
Positions - Legislative Count	(-28.0)	(-28.0)	All Other	(15,200)	(30,400)
Personal Services	(941,187)	(1,104,663)	Provides for the deappropriation of funds due to imaging of documents for storage.		
All Other	(36,750)	(42,000)	Social Services - Regional		
TOTAL	(977,937)	(1,146,663)	All Other		142,800
Provides for the deappropriation of funds from the elimination of one Clerk IV position, 6 Income Maintenance Supervisor positions, 10 Income Maintenance Specialist positions, one Income Regional Manager position, 3 Human Services Aide III positions, 6 Clerk Typist II positions, one Management Analyst I position and related All Other.			Provides for the appropriation of funds for the Regional Caseworkers to be equipped with cellular phones in accordance with the recommendation of the Productivity Realization Task Force.		
Medical Care Administration			Elder and Adult Services - Bureau of		
All Other	(34,500)	(138,000)	Personal Services	(30,000)	(60,000)
Provides for the deappropriation of funds for the PrimeCare contract.			Provides for the deappropriation of funds for reorganization of standby and after-hours coverage.		
Medical Care Administration			Social Services - Regional		
Positions - Legislative Count	(-10.5)	(-10.5)	Positions - Legislative Count	(-20.0)	(-23.5)
Personal Services	(297,517)	(346,581)	Personal Services	(405,011)	(634,572)
All Other	(13,500)	(15,750)	All Other	(21,750)	(36,000)
TOTAL	(311,017)	(362,331)	TOTAL	(426,761)	(670,572)
Provides for the deappropriation of funds from the elimination of one Health Services Consultant position, 3 Clerk Typist II positions, one Provider Relations Specialist position, 2 Medical Claims Evaluator positions, 2 Human			Provides for the deappropriation of funds from the elimination of 2 Clerk IV positions, 15 Clerk Typist II positions, one Clerk II position, 2 Clerk Typist III positions and related All Other. In addition, another 3.5		

Clerk Typist II positions will be eliminated in fiscal year 1996-97.			DEPARTMENT OF LABOR		
			TOTAL	(66,832)	(67,180)
Special Children's Services			MARINE RESOURCES,		
			DEPARTMENT OF		
Positions - Legislative Count	(-0.5)	(-0.5)	Administration - Marine		
Personal Services	(41,541)	(43,893)	Resources		
All Other	(1,500)	(1,500)	Positions - Legislative Count	(1.0)	(1.0)
TOTAL	(43,041)	(45,393)	Personal Services	30,059	59,345
Provides for the deappropriation of funds from the elimination of one part-time Public Health Physician position and related All Other.			All Other	5,900	11,800
State Supplement to Federal Supplemental Security Income			TOTAL	35,959	71,145
All Other	(154,000)	(1,052,500)	Provides for the appropriation of funds for the transfer of one Director, Marketing Marine Resources position from the Bureau of Marine Development.		
Provides for the deappropriation of funds for the transfer of administration of Supplemental Security Income from federal contract to the Bureau of Family Independence.			Marine Development - Bureau of		
Welfare Employment, Education and Training			Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(1,711)	(1,685)	Personal Services	(11,676)	(77,553)
Provides for the deappropriation of funds from the redlining of 3 Human Services Caseworker positions.			Provides for the deappropriation of funds from the elimination of one Seafood Technician Supervisor position and one Clerk Typist III position; 3 class exchanges, one Planning and Research Associate position exchanged for one Policy Development Specialist position; one Scientist II position exchanged for one Policy Development Specialist position; and one Seafood Technologist position exchanged for one Senior Seafood Technologist position; and one upgrade from one Microbiologist II position to one Microbiologist Supervisor position; all as part of a reorganization of the department.		
DEPARTMENT OF HUMAN SERVICES			Marine Development - Bureau of		
TOTAL	(1,049,528)	(1,456,712)	Positions - Legislative Count	(-1.0)	(-1.0)
LABOR, DEPARTMENT OF			Personal Services	(30,059)	(59,345)
Regulation and Enforcement			All Other	(5,900)	(11,800)
Positions - Legislative Count	(-2.0)	(-2.0)	TOTAL	(35,959)	(71,145)
Personal Services	(63,832)	(64,180)			
All Other	(3,000)	(3,000)			
Provides for the deappropriation of funds from the elimination of one Labor Safety Inspector position and one Safety Compliance Specialist position and associated All Other deallotted by Financial Order 000329F5 in fiscal year 1995-96.					

Provides for the deappropriation of funds through the transfer of one Director, Marketing Marine Resources position to the Bureau of Administration.

Marine Development - Bureau of

Positions - Legislative Count	(-18.0)	(-18.0)
Personal Services	(499,162)	(783,763)
All Other	(234,454)	(424,392)
Capital Expenditures	(23,619)	(49,619)
TOTAL	(757,235)	(1,257,774)

Provides for the deappropriation of funds for the transfer of 2 Marine Resource Scientist IV positions, 2 Marine Resource Specialist II positions, one Microbiologist I position, one Clerk Stenographer III position, 2 Seafood Technologist positions, 3 Marine Resource Specialist I positions, 4 Marine Resource Technician positions, one Microbiologist II position, one Marine Resource Scientist II position and one Marine Resource Scientist I position to the Bureau of Marine Sciences.

Marine Patrol - Bureau of

Positions - Legislative Count	(-0.5)	(-0.5)
Personal Services	(92)	(12,347)

Provides for the deappropriation of funds from the elimination of one Clerk Typist III position as part of the reorganization of the department.

Marine Sciences - Bureau of

Positions - Legislative Count	(-4.0)	(-4.0)
Personal Services	(59,453)	(152,860)

Provides for the deappropriation of funds from the elimination of one Marine Resource Scientist I position, one Marine Resource

Technician position, one Clerk Typist II position and one Computer Programmer position as part of a reorganization of the department.

Marine Sciences - Bureau of

Positions - Legislative Count	(18.0)	(18.0)
Personal Services	499,162	783,763
All Other	234,454	424,392
Capital Expenditures	23,619	49,619
TOTAL	757,235	1,257,774

Provides for the appropriation of funds for the transfer of 2 Marine Resource Scientist IV positions, 2 Marine Resource Specialist II positions, one Microbiologist I position, one Clerk Stenographer III position, 2 Seafood Technologist positions, 3 Marine Resource Specialist I positions, 4 Marine Resource Technician positions, one Microbiologist II position, one Marine Resource Scientist II position and one Marine Resource Scientist I position from the Bureau of Marine Development.

DEPARTMENT OF MARINE RESOURCES

TOTAL	(71,221)	(242,760)
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PUBLIC SAFETY, DEPARTMENT OF

Administration - Public Safety

Positions - Legislative Count	(2.5)	(2.5)
Personal Services	52,606	105,093

Provides for the appropriation of funds for the consolidation of administrative services for the Departments of Defense and Veterans' Services and Public Safety through the transfer of one Personnel Specialist position and one Accountant III position to the center from the Department of Defense and Veterans'

Services, and the establishment of one 1/2-time Financial Analyst position.

**DEPARTMENT OF PUBLIC SAFETY
TOTAL**

52,606 105,093

**TRANSPORTATION,
DEPARTMENT OF**

Administration - Aeronautics

Positions - Legislative Count (-0.5) (-0.5)
Personal Services (13,533) (13,698)

Provides for the deappropriation of funds from the elimination of one Clerk Typist II position, which is 50% funded from Aeronautics - Administration and 50% funded from the Augusta State Airport.

Administration - Aeronautics

All Other (57,270) (58,610)

Provides for the deappropriation of funds from the reduction of Personal Services costs at the Augusta State Airport.

Administration - Ports and Marine Transportation

All Other (21,537) (22,149)

Provides for the deappropriation of funds from the reduction of Personal Services costs at the Island Ferry Service.

Railroad Assistance Program

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (22,430) (45,330)

Provides for the deappropriation of funds from the elimination of one Railroad Inspector position, effective January 1, 1996.

**DEPARTMENT OF TRANSPORTATION
TOTAL**

(114,770) (139,787)

SECTION A-1

TOTAL APPROPRIATIONS

1,518,932 3,105,060

Sec. A-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

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 117,914 123,375

Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 30,473 59,275

Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**Transportation Building
Maintenance**

Positions - Legislative Count (-4.0) (-4.0)
Personal Services (42,425) (106,078)

Provides for the deallocation of funds from the elimination of one Custodial Worker I position, 2 Custodial Worker II positions and one Custodial Worker III position. These position eliminations are in accordance with the department's productivity plan.

**Transportation Building
Maintenance**

Personal Services (15,052)

Provides for the additional deallocation of funds as a result of charging separation costs to a vacant position.

**Transportation Building
Maintenance**

Personal Services	(3,117)	(6,264)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

87,793	70,308
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**PUBLIC SAFETY,
DEPARTMENT OF****Administration - Public Safety**

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(13,543)	(12,284)

Provides for the establishment of an Administrative Services Center for the Department of Defense and Veterans' Services and the Department of Public Safety, the deallocation of funds for one Clerk II and one 1/2-time Chief Accountant position and the establishment of one 1/2-time Financial Analyst position.

**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

(13,543)	(12,284)
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SECTION A-2**TOTAL ALLOCATIONS**

74,250	58,024
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Sec. A-3. 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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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF****Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	213,780	266,095
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Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings

achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	54,946	127,412
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Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

268,726	393,507
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**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF****Agricultural Production**

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(9,831)	(20,267)
All Other	(47,838)	(67,310)
Capital Expenditures	(15,000)	(20,000)

TOTAL	(72,669)	(107,577)
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Provides for the deallocation of funds for the transfer of one part-time Planning and Research Associate I position to the Division of Production and Marketing Development with support funds.

Food Assistance Program

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(11,011)	(25,016)

Provides for the deallocation of funds from the elimination of 1/2 of a split-funded Planning and Research Associate II position; class exchanging one part-time Clerk Typist III position to 1/2 of a split-funded Clerk Typist II position; and class exchanging one Director Surplus Food position to one Planner II position.

**Marketing Services -
Agriculture**

Positions - Other Count	(-3.0)	(-3.0)	DEPARTMENT OF CONSERVATION		
Personal Services	(60,450)	(72,608)	TOTAL	(31,079)	(54,710)
Provides for the deallocation of funds from the elimination of 3 Egg/Poultry Processing Inspector positions.			HUMAN SERVICES, DEPARTMENT OF		
Pesticides Control - Board of			Administration - Human Services		
Positions - Other Count	(-1.0)	(-1.0)	Positions - Other Count	(-13.0)	(-13.0)
Personal Services	(15,000)	(30,000)	Personal Services	(273,161)	(403,880)
Provides for the deallocation of funds from elimination of one Clerk Typist II position.			All Other	(15,000)	(19,500)
Division of Market and Production Development			TOTAL	(288,161)	(423,380)
Positions - Other Count	(0.5)	(0.5)	Provides for the deallocation of funds from the elimination of one Account Clerk II position, 6 Data Entry Specialist positions, one Stores Clerk position, 2 Auditor II positions, one Accountant III position, one Clerk Typist II position and one Lead Data Entry Specialist position and related All Other deallotted by Financial Order 000329F5 in fiscal year 1995-96.		
Personal Services	9,831	20,267	Administration - Regional - Human Services		
All Other	47,838	67,310	Positions - Other Count	(-5.0)	(-5.0)
Capital Expenditures	15,000	20,000	Personal Services	(86,559)	(129,688)
TOTAL	72,669	107,577	All Other	(6,000)	(7,500)
Provides for the allocation of funds for the transfer in of one part-time Planning and Research Associate I position from Agricultural Production with support funds.			TOTAL	(92,559)	(137,188)
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES			Provides for the deallocation of funds from the elimination of 2 Clerk Typist II positions, 2 Account Clerk I positions and one Post Office Clerk position and related All Other deallotted by Financial Order 000329F5 in fiscal year 1995-96.		
TOTAL	(86,461)	(127,624)	Administration - Income Maintenance		
CONSERVATION, DEPARTMENT OF			Positions - Other Count	(-25.0)	(-25.0)
Insect and Disease Management			Personal Services	(645,551)	(823,513)
Positions - Other Count	(-0.5)	(-0.5)	All Other	(33,000)	(37,500)
Personal Services	(6,569)	(6,832)	TOTAL	(678,551)	(861,013)
Provides for the deallocation of funds from the elimination of one part-time Custodial Worker I position.			Provides for the deallocation of funds from the elimination of one Income Maintenance		
Parks - General Operations					
Positions - Other Count	(-1.0)	(-1.0)			
Personal Services	(24,510)	(47,878)			
Provides for the deallocation of funds from the elimination of one Community Recreation Specialist position.					

Program Supervisor position, one Human Services Aide III position, 3 Income Maintenance Specialist positions, 11 Clerk Typist II positions, one Hearings Examiner position, one Support Enforcement District Supervisor position, one Support Enforcement Program Manager position, 4 Clerk Typist III positions, one Clerk II position and one Social Services Program Specialist II position and related All Other.

Child Welfare Services

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(51,271)	(51,972)
All Other	(1,500)	(1,500)
TOTAL	(52,771)	(53,472)

Provides for the deallocation of funds from the elimination of one Social Services Supervisor position and related All Other.

Elder and Adult Services - Bureau of

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(20,273)	(57,293)
All Other	(750)	(1,500)
TOTAL	(21,023)	(58,793)

Provides for the deallocation of funds from the elimination of one Social Services Program Specialist II position and related All Other.

Income Maintenance - Regional

Positions - Other Count	(-22.0)	(-22.0)
Personal Services	(585,695)	(776,920)
All Other	(29,250)	(33,000)
TOTAL	(614,945)	(809,920)

Provides for the deallocation of funds from the elimination of 4 Income Maintenance Supervisor positions, one Clerk IV position, 7 Clerk Typist II positions, 5

Income Maintenance Specialist positions, 4 Human Services Aide III positions and one Staff Development Specialist IV position.

Medical Care Administration

Positions - Other Count	(-11.0)	(-11.0)
Personal Services	(372,130)	(378,960)
All Other	(16,500)	(16,500)
TOTAL	(388,630)	(395,460)

Provides for the deallocation of funds from the elimination of 3 Clerk Typist II positions, one part-time Comprehensive Health Planner I position, one full-time and one part-time Provider Relations Specialist position, one Information Systems Support Technician position, one Medical Claims Evaluator position, one Accountant II position, one Microbiologist II position, one Health Services Consultant position and one Medical Social Worker Consultant position and related All Other.

Welfare Employment, Education and Training

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(75,455)	(76,085)
All Other	(3,750)	(4,500)
TOTAL	(79,205)	(80,585)

Provides for the deallocation of funds from the redlining of one Human Services Caseworker position and the elimination of one Clerk Typist II position, one Clerk Stenographer II position, one Planning and Research Associate I position, one Social Services Program Specialist II position and related All Other.

DEPARTMENT OF HUMAN SERVICES

TOTAL	(2,215,845)	(2,819,811)
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MARINE RESOURCES, DEPARTMENT OF**Marine Development - Bureau of**

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(51,841)	(127,805)

Provides for the deallocation of funds from the elimination of 3 Natural Science Educator positions as part of the reorganization of the department.

Marine Development - Bureau of

Positions - Other Count	(-15.0)	(-15.0)
Personal Services	(303,574)	(635,701)
All Other	(41,176)	(137,825)
Capital Expenditures		(33,850)
TOTAL	(344,750)	(807,376)

Provides for the deallocation of funds for the transfer of one Clerk Typist III position, one Planning and Research Associate II position, one Senior Planner position, one Education Specialist III position, 2 Marine Resource Technician positions, one Marine Resource Scientist I position, one Marine Resource Scientist II position, one Marine Resource Scientist IV position and 6 Conservation Aide positions to the Bureau of Marine Sciences as part of the department's reorganization.

Marine Patrol - Bureau of

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(18,097)	(36,194)

Provides for the deallocation of funds for the transfer of one Marine Resource Specialist I position to the Bureau of Marine Sciences.

Marine Sciences - Bureau of

Positions - Other Count	(-1.5)	(-1.5)
Personal Services	(19,337)	(39,418)

Provides for the deallocation of funds from the elimination of one Word Processing Operator position and one Laborer I position as part of a reorganization of the department.

Marine Sciences - Bureau of

Positions - Other Count	(16.0)	(16.0)
Personal Services	321,671	671,895
All Other	41,176	137,825
Capital Expenditures		3,850

TOTAL	362,847	843,570
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Provides for the deallocation of funds for the transfer of one Clerk Typist III position, one Planning and Research Associate II position, one Senior Planner position, one Education Specialist III position, 2 Marine Resource Technician positions, one Marine Resource Scientist I position, one Marine Resource Scientist II position, one Marine Resource Scientist IV position, and 6 Conservation Aide positions and one Marine Resource Specialist I position to the Bureau of Marine Sciences as part of the department's reorganization.

DEPARTMENT OF MARINE RESOURCES

TOTAL	(71,178)	(167,223)
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PUBLIC SAFETY, DEPARTMENT OF**Administration - Public Safety**

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(18,666)	(23,556)
Capital Expenditures	18,666	

Provides for the deallocation of funds for one 1/2-time Chief Accountant position as part of the consolidation

of administrative services for the Department of Defense and Veterans' Services and the Department of Public Safety and provides for the purchase of computer equipment for the service center.

**DEPARTMENT OF PUBLIC SAFETY
TOTAL**

-0- (23,556)

**SECTION A-3
TOTAL ALLOCATIONS**

(2,135,837) (2,799,417)

Sec. A-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.

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF**

**Financial and Personnel
Services - Division of**

Positions - Other Count (-4.0) (-4.0)
Personal Services (43,291) (140,743)

Provides for the deallocation of funds from the elimination of one Business Manager II position, 2 Account Clerk II positions and one Account Clerk I position. These position eliminations are in accordance with the department's productivity plan.

**Financial and Personnel
Services - Division of**

Personal Services (3,174) (8,647)

Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 94,517 151,304

Provides for the allocation of funds for the unfunded liability portion of the

Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 24,233 72,607

Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

72,285 74,521

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

Agricultural Production

Positions - Other Count (2.0) (2.0)
Personal Services 66,313 132,940
All Other 85,000 175,000

TOTAL 151,313 307,940

Provides for the allocation of funds from the transfer of one Account Clerk II position, 8 State Humane Agent positions and 2 District Humane Agent positions from the Bureau of Public Services and from the elimination of one District Humane Agent position.

Agricultural Production

Personal Services (6,029) (6,523)

Provides for the deallocation of funds from the elimination of one intermittent Clerk Stenographer II position.

Agricultural Production

Positions - Other Count (-2.0) (-2.0)
Personal Services (76,696) (80,636)

Provides for the deallocation of funds from the elimination of one full-time Clerk Typist II position, one intermittent Clerk Typist II position,

one Certified Seed Specialist position, one intermittent Entomologist I position and 2 seasonal Seed Potato Inspector positions; and provides for the split-funding of a full-time Clerk Typist II position to fund 1/2 of a split-funded Department Information Systems Manager position and 1/2 of a split-funded Clerk Typist II position.

Public Services - Agriculture

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(110,882)	(189,893)
All Other	(85,000)	(175,000)
TOTAL	(195,882)	(364,893)

Provides for the deallocation of funds from the elimination of one part-time Clerk Typist II position and the transfer to Marketing Services - Agriculture of one split-funded part-time Clerk Typist II position; and transfers out one Account Clerk II position, 8 State Humane Agent positions and 2 District Humane Agent positions to Agricultural Production.

Marketing Services - Agriculture

Positions - Other Count	(-7.0)	(-7.0)
Personal Services	(129,590)	(257,507)

Provides for the deallocation of funds from the elimination of one Assistant to the Commissioner position, 3 intermittent Produce Inspector Aide positions, one seasonal Produce Inspector I position and 7 Produce Inspector II positions. Transfers in 1/2 of a split-funded full-time Clerk Typist II position from Public Services - Agriculture.

Milk Commission

Positions - Other Count	(-1.5)	(-1.5)
Personal Services	(32,338)	(52,288)

Provides for the deallocation of funds from class exchange of one Executive Secretary Maine Milk Commission position to 1/2 of a split-funded Senior Planner position and the elimination of one Secretary position.

Pesticides Control - Board of

Personal Services	(4,949)	(4,716)
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Provides for the deallocation of funds from the elimination of one seasonal Conservation Aide position.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
TOTAL

(294,171)	(458,623)
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CONSERVATION, DEPARTMENT OF**Administrative Services - Conservation**

Positions - Other Count	(0.5)	(0.5)
Personal Services	8,656	18,269
All Other	(8,656)	(18,269)

TOTAL	-0-	-0-
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Provides for the allocation of funds through a line-category transfer for the establishment of 1/2 of a split-funded Information Systems Specialist position. This position is split-funded with the General Fund.

Boating Facilities Fund

Positions - Other Count	(-7.5)	(-7.5)
Personal Services	(115,903)	(336,638)
All Other	100,000	175,000

TOTAL	(15,903)	(161,638)
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Provides for the deallocation of funds from the elimination of one Civil Engineer III position, 2 Engineering Technician IV positions, one Engineering Technician III position, one Park Ranger position, one Assistant Park Ranger

position, one Navigational Aides Assistant position and one Outdoor Recreation Planner position.

Land Management and Planning

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(16,338)	(58,302)

Provides for the deallocation of funds from the elimination of one Clerk Typist II position and one Forester II position and through a class exchange establishes one Forester I position.

Land Management and Planning

Personal Services	(7,099)	(13,868)
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Provides for the deallocation of funds from the elimination of 1/2 of a split-funded Forester II position.

Land Use Regulation Commission

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(18,704)	(19,051)

Provides for the deallocation of funds from the elimination of one part-time Environmental Specialist II position.

Off-Road Recreational Vehicles Program

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(3,854)	(13,966)

Provides for the deallocation of funds from the elimination of one part-time Clerk Typist II position.

DEPARTMENT OF CONSERVATION TOTAL

(61,898)	(266,825)
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CORRECTIONS, DEPARTMENT OF

Correctional Center

Positions - Other Count	(1.0)	(1.0)
Personal Services	22,809	36,250

Provides for the allocation of funds for the transfer of one Correctional Officer I position from the Correctional Center Program, General Fund.

State Prison

Positions - Other Count	(1.0)	(1.0)
Personal Services	22,619	32,931

Provides for the allocation of funds through the transfer of one Guard position from the State Prison Program, General Fund.

DEPARTMENT OF CORRECTIONS TOTAL

45,428	69,181
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HUMAN SERVICES, DEPARTMENT OF

Administration - Income Maintenance

Positions - Other Count	(-6.0)	(-6.0)
Personal Services	(106,815)	(262,210)
All Other	(5,250)	(9,000)

Provides for the deallocation of funds from the elimination of one Income Maintenance Supervisor position, 3 Income Maintenance Specialist positions, one Human Services Chief Hearings Officer position and one Legal Secretary position and related All Other.

DEPARTMENT OF HUMAN SERVICES TOTAL

(112,065)	(271,210)
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MARINE RESOURCES, DEPARTMENT OF

Marine Development - Bureau of

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(822)	(14,014)

Provides for the deallocation of funds from the elimination of one seasonal Conservation Aide position as part of a reorganization of the department.

**DEPARTMENT OF MARINE
RESOURCES**

TOTAL	(822)	(14,014)
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SECTION A-4

TOTAL ALLOCATIONS	(351,243)	(866,970)
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Sec. A-5. Allocation. The following funds are allocated from the Postal, Printing and Supply 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****Central Services - Purchases**

Positions - Other Count	(-13.5)	(-13.0)
Personal Services	(201,551)	(387,398)
All Other	(3,000)	(3,000)
TOTAL	(204,551)	(390,398)

Provides for the deallocation of funds from the elimination of 8 Multilith Operator positions, one Supervisor of Reproduction and Printing position, one Warehouse Manager position, one Storekeeper II position, one Storekeeper I position, one Heavy Equipment Operator position and one part-time Clerk II position. These position eliminations are in accordance with the department's productivity plan.

Central Services - Purchases

Positions - Other Count	(0.5)
Personal Services	14,188

Provides for the allocation of funds to correct the elimination of one part-time Clerk II position from the wrong account and to correct the overestimation of savings from the eliminated position.

Central Services - Purchases

Personal Services	(11,120)	(24,965)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(201,483)	(415,363)
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SECTION A-5

TOTAL ALLOCATIONS	(201,483)	(415,363)
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Sec. A-6. Allocation. The following funds are allocated from the Telecommunication 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****Intergovernmental
Telecommunications Fund**

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(49,737)	(47,366)
All Other	(1,500)	(1,500)
TOTAL	(51,237)	(48,866)

Provides for the deallocation of funds from the elimination of one Technical Support Specialist position.

**Intergovernmental
Telecommunications Fund**

Personal Services	3,417
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Provides for the allocation of funds due to the overestimation of savings from the elimination of one vacant Technical Support Specialist position.

**Intergovernmental
Telecommunications Fund**

Personal Services	(2,800)	(2,850)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

	(50,620)	(51,716)
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SECTION A-6

TOTAL ALLOCATIONS

	(50,620)	(51,716)
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Sec. A-7. Allocation. The following funds are allocated from the Data Processing Fund 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**

Data Processing Services

	1995-96	1996-97
Positions - Other Count	(-11.0)	(-11.0)
Personal Services	(435,935)	(444,323)
All Other	(16,500)	(16,500)
TOTAL	(452,435)	(460,823)

Provides for the deallocation of funds from the elimination of 4 Computer Operator positions, one Computer Programmer position, one Data Processing Division Manager position, one Management Analyst I position, one Senior Computer Operator position, one Senior Technical Support Specialist position, one Systems Programmer position and one Systems Team Leader position and related All Other.

Data Processing Services

Personal Services	(26,500)	(27,000)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

	(478,935)	(487,823)
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SECTION A-7

TOTAL ALLOCATIONS

	(478,935)	(487,823)
--	-----------	-----------

Sec. A-8. Allocation. The following funds are allocated from the Workers' Compensation

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
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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Workers' Compensation
Management Fund Program**

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(130,029)	(179,502)

Provides for the deallocation of funds from the elimination of one Clerk Typist II position, 2 Return-to-work Coordinator positions, one Workers' Compensation Aide position and one Workers' Compensation Claims Technician position. These position eliminations are in accordance with the department's productivity plans.

**Workers' Compensation
Management Fund Program**

Personal Services	(4,152)	(13,035)
-------------------	---------	----------

Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

	(134,181)	(192,537)
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SECTION A-8

TOTAL ALLOCATIONS

	(134,181)	(192,537)
--	-----------	-----------

Sec. A-9. Allocation. The following funds are allocated from the Central Motor Pool 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**

Central Motor Pool

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(6,265)	(6,265)

Provides for the deallocation of funds from the elimination of one part-time Clerk II position. The position elimination is in accordance with the department's productivity plan.

Central Motor Pool

Personal Services	(375)	(375)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(6,640)	(6,640)
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**SECTION A-9
TOTAL ALLOCATIONS**

(6,640)	(6,640)
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Sec. A-10. Allocation. The following funds are allocated from the Internal Services Fund - Statewide 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**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	56,161	81,225
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Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	16,385	37,510
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Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

72,546	118,735
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**SECTION A-10
TOTAL ALLOCATIONS**

72,546	118,735
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Sec. A-11. Allocation. The following funds are allocated from the Potato Marketing 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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**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

**Potato Market Improvement
Fund**

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(24,128)	(25,318)

Provides for the deallocation of funds from the elimination of one Clerk Typist II position.

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

(24,128)	(25,318)
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**SECTION A-11
TOTAL ALLOCATIONS**

(24,128)	(25,318)
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Sec. A-12. 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	(-1.0)	(-1.0)
Personal Services	(23,262)	(24,227)

Provides for the deallocation of funds from the elimination of one Clerk Typist I position.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

(23,262)	(24,227)
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**SECTION A-12
TOTAL ALLOCATIONS**

(23,262)	(24,227)
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Sec. A-13. Allocation. The following funds are allocated from the Augusta State Airport 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
TRANSPORTATION, DEPARTMENT OF		
Augusta State Airport		
Positions - Other Count	(-2.5)	(-2.5)
Personal Services	(61,877)	(64,134)
Provides for the deallocation of funds from the elimination of one Laborer II position, one Airport Custodian position and one Clerk Typist II position that is 50% funded from airport administration and 50% funded from the Augusta State Airport Fund.		
DEPARTMENT OF TRANSPORTATION TOTAL	<u>(61,877)</u>	<u>(64,134)</u>
SECTION A-13 TOTAL ALLOCATIONS	<u>(61,877)</u>	<u>(64,134)</u>

Sec. A-14. Allocation. The following funds are allocated from the Alcoholic Beverage 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		
Alcoholic Beverages - General Operation		
Positions - Legislative Count	(-11.0)	(-11.0)
Personal Services	(456,529)	(511,439)
All Other	(13,500)	(13,500)
TOTAL	<u>(470,029)</u>	<u>(524,939)</u>
Provides for the deallocation of funds from the elimination of 7 Retail Store Clerk positions, one Retail Store Manager I position, one Assistant Manager Retail Store position, one Heavy Equipment Operator position, one Master Carpenter position and 27 intermittent Retail Store Clerk positions. These position eliminations are		

in accordance with the department's productivity plan.

**Alcoholic Beverages - General
Operation**

Personal Services	(28,000)	(31,000)
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Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES**

TOTAL	<u>(498,029)</u>	<u>(555,939)</u>
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SECTION A-14 TOTAL ALLOCATIONS	<u>(498,029)</u>	<u>(555,939)</u>
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Sec. A-15. Allocation. The following funds are allocated from the Prison Industries 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
CORRECTIONS, DEPARTMENT OF		
State Prison		
Positions - Other Count	(1.0)	(1.0)
Personal Services	16,272	36,658
Provides for the allocation of funds for the transfer of one Wood Products Manager position from the General Fund State Prison program.		
DEPARTMENT OF CORRECTIONS TOTAL	<u>16,272</u>	<u>36,658</u>
SECTION A-15 TOTAL ALLOCATIONS	<u>16,272</u>	<u>36,658</u>

Sec. A-16. Allocation. The following funds are allocated from the Seed Potato Board 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
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Seed Potato Board		
Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(114,386)	(136,264)

Provides for the deallocation of funds from the elimination of one Clerk Typist III position, 11 intermittent Laborer I positions and 2 Agricultural Worker I positions.

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

	(114,386)	(136,264)
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**SECTION A-16
TOTAL ALLOCATIONS**

	(114,386)	(136,264)
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Sec. A-17. Allocation. The following funds are allocated from 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

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(30,885)	(32,791)
All Other	(1,500)	(1,500)
TOTAL	(32,385)	(34,291)

Provides for the deallocation of funds from the elimination of one Account Clerk II position. The position elimination is in accordance with the department's productivity plan.

Lottery Operations

Personal Services	(2,000)	(2,017)
Provides for the deallocation of funds related to the unfunded liability portion of the retirement rate.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

	(34,385)	(36,308)
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**SECTION A-17
TOTAL ALLOCATIONS**

	(34,385)	(36,308)
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Sec. A-18. Allocation. The following funds are allocated from Statewide - Enterprise 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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**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	40,566	43,691
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Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	12,004	23,355
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Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

	52,570	67,046
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**SECTION A-18
TOTAL ALLOCATIONS**

	\$52,570	\$67,046
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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
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**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**

Administration - Agriculture

Positions - Legislative Count	(-7.0)	(-8.0)
Personal Services	(\$144,134)	(\$345,592)
All Other	108,774	222,193
TOTAL	(35,360)	(123,399)

Provides for the deappropriation of funds

through the transfer of one Personnel Specialist position, one Personnel Assistant position, one Chief Accountant position, 2 Accountant II positions, one Accountant I position, one Account Clerk II position to the Administrative Services Center program, Other Special Revenue in the Department of Environmental Protection in fiscal years 1995-96 and 1996-97; and the transfer of one Personnel Officer position in fiscal year 1996-97 to the same program and fund and provides for the appropriation of All Other funds to pay for services received from the Administrative Services Center.

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

(35,360) (123,399)

**CONSERVATION,
DEPARTMENT OF**

**Administrative Services -
Conservation**

Positions - Legislative Count	(-6.5)	(-7.5)
Personal Services	(121,009)	(304,197)
All Other	111,963	260,806
TOTAL	(9,046)	(43,391)

Provides for the deappropriation of funds from the transfer of one Accountant III position, 1/2 of a split-funded Account Clerk II position, one Account Clerk II position, one Payroll Supervisor position, one Personnel Specialist position, one Personnel Assistant position and one Storekeeper II position to the Administrative Services Center program, Other Special Revenue in fiscal years 1995-96 and 1996-97 and one Personnel Manager position to the same

program in fiscal year 1996-97, and increases All Other to pay for services of the Administrative Services Center.

Parks - General Operations

Personal Services	(3,706)	(7,516)
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Provides for the deappropriation of funds through the elimination of one Director, Parks and Recreation position and the establishment of one split-funded Director, Parks and Lands position and one split-funded Deputy Director, Parks and Lands position.

**DEPARTMENT OF
CONSERVATION
TOTAL**

(12,752) (50,907)

**CORRECTIONS,
DEPARTMENT OF**

Probation and Parole

Positions - Legislative Count		(-8.0)
Personal Services		(192,593)
All Other	38,830	(6,583)
TOTAL	38,830	(199,176)

Provides for the deappropriation of funds from the elimination of 3 full-time, 2 part-time and 2 1/2 job-share Clerk Typist II positions, one full-time and 2 part-time Clerk Stenographer II positions and one Clerk Stenographer III position and the termination of some office space leases. Funds are provided for increased use of technology through the lease-purchase of computer equipment and software.

State Prison

Positions - Legislative Count	(-10.0)	(-10.0)
Personal Services	(126,538)	(356,065)
All Other	28,500	57,000
TOTAL	(98,038)	(299,065)

Provides for the deappropriation of funds from the elimination of 10 Guard positions and through reductions in All Other expenses. Also provides funds to lease-purchase an electronic intrusion system for the Maine State Prison.		
Youth Center - Maine		
All Other	250,000	
Provides for the appropriation of funds to construct a fence on the grounds of the Maine Youth Center.		
DEPARTMENT OF CORRECTIONS		
TOTAL	190,792	(498,241)
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Administration - Environmental Protection		
Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(117,685)	(236,228)
All Other		(48,480)
TOTAL	(117,685)	(284,708)
Provides for the deappropriation of funds through the transfer of one Commissioner position, one Regional Director position and the related All Other costs to the Administration - Environmental Protection program, Other Special Revenue fund and the transfer of one Regional Director position to the same program, Federal Expenditure Fund.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	(117,685)	(284,708)
SECTION B-1		
TOTAL APPROPRIATIONS	24,995	(957,255)

Sec. B-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.

CONSERVATION, DEPARTMENT OF

Administrative Services - Conservation

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(14,655)	(29,310)
All Other	14,655	29,310
TOTAL	-0-	-0-

Provides for the deallocation of funds from the transfer of one Account Clerk II position to the Administrative Services Center program, Other Special Revenue in the Department of Environmental Protection and for All Other funds to pay for the services of the Administrative Services Center.

DEPARTMENT OF CONSERVATION

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Administration - Environmental Protection

Positions - Other Count	(-6.0)	(-7.0)
Personal Services	(89,728)	(222,947)
All Other	109,404	212,794
TOTAL	19,676	(10,153)

Provides for the deallocation of funds through the transfer of 2 Accountant II positions, one Accountant I position, one Account Clerk II position, one Clerk III position and one Payroll Supervisor position to the Administrative Services Center program in fiscal years 1995-96 and 1996-97, the transfer of one Accountant III position to the same program for fiscal year 1996-97 only and the transfer of one Personnel Assistant position to the

Administration - Environmental Protection program, Other Special Revenue. Also the transfer of one Regional Director position from the General Fund of this program and related All Other for the cost of services from the Administrative Services Center.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL	19,676	(10,153)
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SECTION B-2

TOTAL ALLOCATIONS	19,676	(10,153)
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Sec. B-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
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AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Administration - Agriculture

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(7,303)	(14,606)

Provides for the deallocation of funds through the transfer of one part-time Clerk Typist II position to the Administrative Services Center program, Other Special Revenue in the Department of Environmental Protection.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

TOTAL	(7,303)	(14,606)
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CONSERVATION, DEPARTMENT OF

Administrative Services - Conservation

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(63,485)	(126,970)
All Other	63,485	126,970

TOTAL	-0-	-0-
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Provides for the deallocation of funds through the transfer of one seasonal Clerk I position, 2 Accountant I positions, one part-time Account Clerk II position and one Property Officer position to the Administrative Services Center program, Other Special Revenue in the Department of Environmental Protection and allocates funds for the All Other costs of services from the Administrative Services Center.

Land Management and Planning

Personal Services	2,685	1,603
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Provides for the allocation of funds for the establishment of 1/2 of a split-funded Director, Parks and Lands position and 1/2 of a split-funded Deputy Director, Parks and Lands position, the elimination of the Director, Public Lands position and the upgrade of one Chief Planner position to one Director, Division of Planning position.

DEPARTMENT OF CONSERVATION

TOTAL	2,685	1,603
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ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Administration - Environmental Protection

Positions - Other Count	(-4.0)	(-5.0)
Personal Services	(28,421)	(106,133)
All Other	109,404	239,960

TOTAL	80,983	133,827
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Provides for the allocation of funds through the transfer out of 7 positions in fiscal year 1995-96 and 8 positions in fiscal year 1996-97 to the Administrative Services Center program, Other

Special Revenue and the transfer in of 2 positions from the Administration - Environmental Protection program, General Fund and one Personnel Assistant position to be reorganized to an Administrative Secretary position from the Administration - Environmental Protection program, Federal Expenditure Fund and the downgrade of one additional position. Position detail on file in the Bureau of the Budget. All Other funds are for the cost of services from the Administrative Services Center.

Administrative Services Center

Positions - Other Count	(33.0)	(37.0)
Personal Services	617,790	1,452,160
All Other	55,000	84,000
Capital Expenditures	10,000	
TOTAL	682,790	1,536,160

Provides for the allocation of funds through the transfer of 32 positions in fiscal year 1995-96 and 36 positions in fiscal year 1996-97 to the newly established Administrative Services Center program and establishes one Director, Administrative Services Center position to provide administrative support services to the Department of Agriculture, Food and Rural Resources, the Department of Conservation and the Department of Environmental Protection. Positions are transferred from the 3 departments and are on file in the Bureau of the Budget. All Other funds are provided for operating expenses of the Administrative Services Center.

Administrative Services Center

Positions - Other Count	(-13.0)	(-13.0)
Personal Services	(145,179)	(426,007)

Provides for the deallocation of funds from the elimination of 3 Account Clerk II positions, one Accountant I position, 4 Accountant II positions, one Clerk I position, one 1/2-time Clerk I position, one Clerk III position, one 1/2-time Clerk Typist II position, one Storekeeper II position, one Management Analyst I position and one Conservation Aide position. Position detail is on file in the Bureau of the Budget. All position eliminations are associated with the creation of the Administrative Services Center.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL	618,594	1,243,980
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SECTION B-3

TOTAL ALLOCATIONS	613,976	1,230,977
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PART C

Sec. C-1. 5 MRSA §933, as amended by PL 1991, c. 671, Pt. O, §§1 to 3, is repealed and the following enacted in its place:

§933. Department of Agriculture, Food and Rural Resources

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Agriculture, Food and Rural Resources. Notwithstanding any other provisions of law, these positions and their successor positions are subject to this chapter:

A. Deputy Commissioner;

B. Director, Office of Planning, Policy, Legislative and Information services;

C. Director, Office of Agricultural, Natural and Rural Resources;

D. Director, Division of Plant Industry;

E. Director, Division of Animal Health and Industry;

F. Director, Division of Marketing and Production Development; and

G. Director, Division of Quality Assurance and Regulations.

Sec. C-2. 5 MRSA §12004-H, sub-§7, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. C-3. 7 MRSA §1, as amended by PL 1991, c. 837, Pt. A, §12, is further amended to read:

§1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural Resources, is established and is maintained for the improvement of agriculture and the advancement of the interests of husbandry. The Department of Agriculture, Food and Rural Resources is referred to in this Title as the "department" and consists of the Commissioner of Agriculture, Food and Rural Resources, in this Title called the "commissioner," and the following: The Aroostook Water and Soil Management Board, the Board of Pesticide Control, the Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Maine Potato Board, the Seed Potato Board, the State Soil and Water Conservation Commission, the Harness Racing Commission, and the Board of Veterinary Medicine ~~and the Animal Welfare Board~~. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and to confirmation by the Legislature, and holds office during the pleasure of the Governor. The commissioner is entitled to receive actual expenses incurred in the performance of the commissioner's official duties. The commissioner may employ such clerical labor as may be required, subject to the Civil Service Law, and may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of the commissioner's duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. C-4. 7 MRSA §5, as amended by PL 1979, c. 731, §9, is further amended to read:

§5. Deputies; associates; directors

The commissioner may appoint and fix the compensation of ~~such~~ those deputies, associates ~~and~~, bureau directors ~~as~~, office directors and division directors that in his the commissioner's judgment are required to assist ~~him~~, and to enable ~~him~~ the commissioner to carry out all laws, the execution of which is entrusted to ~~him~~ the commissioner. These deputies, associates ~~and~~, bureau directors, office directors and

division directors ~~shall~~ hold office during the pleasure of the commissioner.

Sec. C-5. 7 MRSA §3901, as enacted by PL 1987, c. 383, §3, is amended to read:

§3901. Animal Welfare Act

This chapter ~~shall be~~ is known and may be cited as the "Animal Welfare ~~Board~~ Act."

Sec. C-6. 7 MRSA §3903-A, as enacted by PL 1991, c. 779, §4, is repealed.

Sec. C-7. 7 MRSA §3904, as amended by PL 1991, c. 779, §5, is repealed.

Sec. C-8. 7 MRSA §3905, as amended by PL 1991, c. 779, §6, is repealed.

Sec. C-9. 7 MRSA §3906-A, as enacted by PL 1991, c. 779, §8, is repealed.

Sec. C-10. 7 MRSA §3906-B, sub-§5, as enacted by PL 1991, c. 779, §9, is repealed.

Sec. C-11. 7 MRSA §3906-B, sub-§9, as amended by PL 1993, c. 468, §3, is further amended to read:

9. Employees. The commissioner shall employ personnel, subject to the Civil Service Law, as necessary to assist in enforcing this Part and in carrying out the duties and responsibilities of the department. The commissioner, in consultation with the ~~board~~ Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, one full-time humane agent to assist the ~~board~~ commissioner in carrying out ~~its~~ the commissioner's duties and responsibilities. The commissioner may not hire as a state humane agent a person who has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739.

Sec. C-12. 7 MRSA §3906-B, sub-§§11 to 15 are enacted to read:

11. Cruelty to animals. The commissioner, in cooperation with animal control officers, shall investigate complaints of cruelty to animals and enforce cruelty-to-animal laws in accordance with chapter 739 and Title 17, chapter 42. The Attorney General and the district attorneys shall assist the commissioner with the commissioner's enforcement responsibilities.

12. Intermittent agents. The commissioner shall appoint intermittent humane agents as necessary to assist the commissioner in carrying out the commissioner's duties and responsibilities. The commissioner shall train and coordinate efforts of

intermittent agents. These intermittent agents are unclassified employees whose training, compensation and hours of employment are determined by the commissioner.

13. Spaying and neutering fund. The commissioner may accept funds from any private or public source for the purpose of subsidizing spaying and neutering. The commissioner shall deposit all funds accepted for this purpose into a separate, nonlapsing spaying and neutering account. The commissioner shall establish guidelines for payments and make payments from the fund. All payments from the fund must be used to subsidize spaying and neutering of dogs and cats.

14. Information. The commissioner may obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the commissioner.

15. Annual report. The commissioner shall report the activities of the commissioner annually by March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters. This report must include a summary of cases of cruelty to animals investigated by the commissioner and an account of deposits into and payments from the spaying and neutering fund.

Sec. C-13. 7 MRSA §3906-C, sub-§1, as enacted by PL 1991, c. 779, §10, is amended to read:

1. Membership. The committee consists of 6 9 members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Legislature. The Governor shall appoint members as follows:

- A. One municipal clerk;
- B. One animal control officer;
- C. One member representing licensed animal shelters;
- D. One member representing licensed boarding or breeding kennels;
- E. One member representing licensed pet shops; ~~and~~
- F. ~~One member~~ Two members representing humane societies;
- G. One member who is or has been a veterinarian licensed to practice in the State; and
- H. One member who represents the interests of the public in animal welfare, generally.

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association.

Sec. C-14. 36 MRSA §4603, sub-§1, as amended by PL 1989, c. 503, Pt. B, §170, is further amended to read:

1. Establishment. The Maine Potato Board, as established by Title 5, section 12004-H, subsection 7, is within the Department of Agriculture, Food and Rural Resources a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part is determined 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 board may not be construed to be a state agency. The board ~~shall consist~~ consists of 11 members who, following the transition period provided for in subsection 11, ~~shall~~ must be elected in accordance with the procedures set forth in this chapter and such additional procedures as the board may prescribe by rulemaking. Subject to such staggered terms as the board may provide by rule, board members shall serve 2-year terms, provided that a board member may continue to serve until a successor is duly elected and qualified and that board members may not serve more than 3 consecutive terms.

Sec. C-15. 36 MRSA §4603, sub-§9, as corrected by RR 1993, c. 1, §108, is amended to read:

9. Staff. The board shall appoint an executive director who is the board's chief administrative officer and who serves at the pleasure of the board. The executive director shall employ such additional staff as the board directs and the staff ~~shall serve~~ serves at the pleasure of the executive director. Staff of the board is not subject to the Civil Service Law. The salary paid to the executive director and other staff of the board must be fixed by the board, ~~subject to the approval of the Governor.~~ The board may delegate to its staff the power to execute the board's policies and programs, subject to regular oversight of the board. After March 1, 1996, employees of the board may not be considered to be state employees for any purpose. For the purposes of the Maine Tort Claims Act, the board is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.

Sec. C-16. 36 MRSA §4603, sub-§10, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

10. Compensation. Board members and members of executive councils may be reimbursed for travel expenses necessary to their official business in accordance with state procedures. Board members

~~shall also receive a per diem allotment for attendance at board meetings as provided in Title 5, chapter 379 compensated and reimbursed for expenses in accordance with such guidelines as the board may establish.~~

Sec. C-17. 36 MRSA §4604, sub-§§1, 3 and 4, as enacted by PL 1985, c. 753, §§14 and 15, are amended to read:

1. Bylaws. The board may, ~~in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375,~~ adopt rules and bylaws to govern its functions and those of the assemblies and executive councils provided for in this chapter.

3. Contracts. The board may, ~~subject to laws and procedures generally applicable to state agencies,~~ enter into contracts and agreements with private and public entities ~~which that~~ the board finds are in furtherance of its legislative purposes. The contracts and agreements may include, without limitation, those relating to the lease or purchase of office space, facilities, property, equipment and supplies as the board ~~deems~~ considers necessary for its purposes. The board may delegate to its executive director the power to enter into the contracts and agreements, subject to the board's oversight.

4. Funding; accounts. In addition to the money received by the board pursuant to section 4606, the board may receive and expend funds from any source, public or private, ~~which that it deems~~ considers necessary to carry out its legislative purposes. ~~All money received from any source shall be placed in a nonlapsing, separate account or accounts, to be expended for the purposes.~~

Sec. C-18. 36 MRSA §4606, as amended by PL 1991, c. 376, §59, is further amended to read:

§4606. Transfers of money received

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be ~~appropriated transferred~~ to the board in its capacity as an independent agency on a monthly basis and used for ~~the following purposes: all activities of the board authorized under this chapter. The board shall pay a sum to the State Tax Assessor representing the cost incurred by the State in collecting the taxes.~~

1. Collection. ~~For the collection of the tax provided for in this chapter and the enforcement of this chapter; and~~

2. Board's activities. ~~For all activities of the board authorized under this chapter.~~

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied

under section 4605, may be appropriated and used for a one-time only transfer of funds to the Seed Potato Board, established by Title 7, chapter 403, equal to the Seed Potato Board's budget deficit for the fiscal year ending June 30, 1991 or \$40,000, whichever is less.

Sec. C-19. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

	1995-96	1996-97
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Maine Potato Board		
Positions - Other Count	(-6.0)	(-6.0)
Personal Services	(\$90,000)	(\$279,921)
All Other	(220,000)	(884,366)
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	<u>(\$310,000)</u>	<u>(\$1,164,287)</u>
MAINE POTATO BOARD		
Potato Board		
All Other	\$310,000	\$1,164,287
MAINE POTATO BOARD		
TOTAL	<u>\$310,000</u>	<u>\$1,164,287</u>

Sec. C-20. Transition provisions; Maine Potato Board. The following provisions apply to the Maine Potato Board on March 1, 1996.

1. Funds transferred. All funds held by the Treasurer of State pursuant to the Maine Revised Statutes, Title 36, sections 4605 and 4606 must be transferred to the Maine Potato Board in its capacity as an independent agency.

2. Debt or obligation. A debt or obligation incurred by the board on or after March 1, 1996 is not a debt or obligation of the State. A debt or obligation incurred by the board prior to March 1, 1996 and outstanding on that date becomes a debt or obligation of the board, not the State.

3. Personnel transferred. Employees of the board must be transferred from state employment to the board on March 1, 1996. Fringe benefits from state employment of the transferred employees, including vacation, sick leave, health and life insurance and retirement, remain with the transferred personnel. After the transition on March 1, 1996, the board may elect to become a participating local district for purposes of the Maine State Retirement System and all employee benefit elections, including the option of retaining state employee health insurance

program benefits for transferred employees, may be made by the board. The Department of Administrative and Financial Services shall assist the board in the orderly transition and implementation of these provisions, to be completed by March 1, 1996.

4. Property. All equipment, vehicles, supplies and other personal property owned by the board on March 1, 1996 remain the property of the board as an instrumentality. The State must transfer title to any property within a reasonable time after March 1, 1996.

PART D

Sec. D-1. 22 MRSA §6-A, as enacted by PL 1991, c. 781, Pt. D, §1 and affected by §4, is repealed and the following enacted in its place:

§6-A. Service delivery regions

The commissioner shall organize regional service delivery in accordance with the following regional boundaries.

1. Region I. Region I is all of York County and Cumberland County.

2. Region II. Region II is all of Franklin County, Oxford County, Androscoggin County, Somerset County, Kennebec County, Waldo County, Knox County, Lincoln County and Sagadahoc County.

3. Region III. Region III is all of Piscataquis County, Penobscot County, Hancock County, Washington County and Aroostook County.

To the greatest extent practicable, the commissioner shall coordinate regional service delivery with the Commissioner of Mental Health and Mental Retardation to maximize the efficiency and effectiveness of services.

Sec. D-2. 22 MRSA §1961, as enacted by PL 1977, c. 516, is amended to read:

§1961. Public Health Nursing Program

There is established within the Department of Human Services, Bureau of Health, ~~a Division of the~~ Public Health Nursing Program.

Sec. D-3. 22 MRSA §1962, as amended by PL 1985, c. 785, Pt. B, §86, is further amended to read:

§1962. Director

~~The Commissioner of Human Services shall appoint a Director of the Public Health Nursing, subject to the Civil Service Law, who shall~~ Program must be licensed as a registered nurse in the State and

shall have education and experience in community health nursing.

Sec. D-4. 22 MRSA §1963, as amended by PL 1989, c. 700, Pt. A, §75, is further amended to read:

§1963. Responsibilities of the Public Health Nursing Program

~~The Division of Public Health Nursing shall have~~ Program has the following responsibilities:

1. Establish standards. To establish standards for the following programs carried out by the department pursuant to state or federal laws or regulations:

A. Community nursing services in communicable diseases;

B. Programs for promoting the health of mothers and children; and

C. School health screening, to be done in cooperation with the Department of Education;

2. Information. To inform community nursing agencies of the standards in subsection 1;

3. Provide nursing services. To provide, at the discretion of the director, nursing services in communities ~~which that lack such these~~ such these services or in which ~~such these~~ such these services are inadequate according to established standards; and

4. Provide technical assistance. To provide technical assistance to school health nurses, prenatal clinics, community immunization clinics and child health conferences and groups seeking to establish ~~such~~ such clinics and conferences.

Sec. D-5. 22 MRSA §2094, as amended by PL 1991, c. 152, §4, is repealed.

Sec. D-6. 22 MRSA §2095, as amended by PL 1991, c. 152, §5, is repealed.

Sec. D-7. 22 MRSA §3731, sub-§3, as enacted by PL 1993, c. 158, §2, is amended to read:

3. Office. "Office" means the Office of Child Care ~~Coordination established pursuant to section 3740 and Head Start.~~

Sec. D-8. 22 MRSA §3739, sub-§2, ¶B, as enacted by PL 1993, c. 158, §2, is amended to read:

B. Two employees of the ~~Bureau of Child and Family Services~~ Department of Human Services who are responsible for child care services, appointed by the commissioner;

Sec. D-9. 22 MRSA §3940, as enacted by PL 1993, c. 158, §2, is amended to read:

§3740. Office of Child Care and Head Start

1. Establishment. The Office of Child Care ~~Coordination and Head Start~~ is established within the ~~Bureau of Child and Family Services~~ Division of Purchased and Support Services.

2. Powers and duties. The office has the following powers and duties:

- A. Maintain an inventory of child care information;
- B. Provide public education on becoming better consumers of child care;
- C. Provide staffing assistance to the council;
- D. Coordinate an ongoing review of all child care licensing rules;
- E. Provide technical assistance to public and private sector employers, school systems and community groups concerning child care, flexible benefits and work schedules;
- F. Coordinate the development of a training system for child care providers;
- G. Develop incentives for employer involvement in child care; and
- H. Promote cooperative relationships between public health organizations and child care programs.

Sec. D-10. 22 MRSA §5312, as enacted by PL 1991, c. 780, Pt. DDD, §13, is amended to read:

§5312. Head Start

The Head Start program is administered by the ~~Bureau of Child and Family Services~~ Division of Purchased and Support Services.

Sec. D-11. 22 MRSA §5321, sub-§1, as enacted by PL 1991, c. 780, Pt. DDD, §14, is repealed.

Sec. D-12. 22 MRSA §5321, sub-§3, as enacted by PL 1991, c. 780, Pt. DDD, §14, is amended to read:

3. Director. "Director" means the director of the ~~bureau~~ division.

Sec. D-13. 22 MRSA §5321, sub-§3-A is enacted to read:

3-A. Division. "Division" means the Division of Purchased and Support Services within the department.

Sec. D-14. 22 MRSA §§5322, 5323, 5324, 5327, 5328 and 5329, as enacted by PL 1991, c. 780, Pt. DDD, §14, are amended to read:

§5322. Division responsibilities

The ~~bureau~~ division shall carry out the responsibilities of State Government related to planning and financing community services and community action agencies and shall administer state and federal community services programs and other block grants that may be available, including, but not limited to, the Community Services Block Grant.

§5323. Powers and duties

1. Federal, state and other funds. Through plans and contracts, the ~~bureau~~ division shall obtain, distribute and administer federal, state and other community services funds. ~~Any balances~~ Balances of funds appropriated to the ~~bureau~~ division to carry out the purposes of this chapter may not lapse, but must be carried forward from year to year to be expended for the same purpose.

2. Monitoring of poverty level. The ~~bureau~~ division shall monitor the poverty level of state citizens and carry out the following activities:

- A. Conduct an annual survey of poverty in Maine, reporting the results of this survey to the Governor, the Legislature and the public;
- B. Make recommendations annually to the Governor and the Legislature on ways and means to combat and reduce poverty in the State;
- C. Seek federal, state and private funds to combat poverty in the State; and
- D. Advise the Governor, the Legislature and local officials on the impact of state and local policies on poverty in the State.

3. Overseeing community action agencies. The ~~bureau~~ division shall oversee community action agencies as follows.

- A. The ~~bureau~~ division shall designate community action agencies every 7 years in accordance with the requirements of this chapter.
- B. The ~~bureau~~ division shall establish audit requirements in accordance with the Human Services Community Agency Accounting Practices Act.

C. The ~~bureau~~ division shall evaluate community action agencies every 3 years.

4. Planning and coordination for state services. The ~~bureau~~ division shall provide planning and coordination for state services to people with low income.

5. Technical assistance. The ~~bureau~~ division shall provide technical assistance to community action agencies and other groups serving the interests of people with low income in this State.

6. Monitoring local program operators. The ~~bureau~~ division shall monitor subgrantees to ensure conformance with appropriate rules.

§5324. Community action agencies

1. Designation. Community action agencies must be designated by the ~~bureau~~ division to carry out the purposes of this chapter. In making these designations, the ~~bureau~~ division shall solicit and consider comments from other state agencies or authorities that operate programs in which community action agencies participate. These designations are for 7 years.

2. Designation withdrawn. The ~~bureau~~ division may withdraw its designation of a community action agency after an evaluation in which the agency has demonstrated substantial incompetency and a clear inability to carry out the purposes of this chapter, unless there is or has been financial malfeasance, which may be cause for immediate withdrawal of designation. In performing these evaluations, the ~~bureau~~ division shall solicit and consider comments from other state agencies or authorities that operate programs in which the community action agency participates.

The ~~bureau~~ division shall notify an agency of a pending withdrawal of designation. Upon notification, the agency has up to 6 months to take corrective action, at which time a designation withdrawal evaluation must be performed by the ~~bureau~~ division. Failure to pass this evaluation means immediate loss of designation.

Upon the final order from the ~~bureau~~ division that rescinds a community action agency's designation, the community action agency may file a petition for review of this final decision in the appropriate Superior Court within 30 days under the Maine Rules of Civil Procedure, Rule 80B.

3. Community action agencies. Community action agencies have the power and duty to:

A. Develop information regarding the causes and conditions of poverty in the service area;

B. Determine how much and how effectively assistance is being provided to deal with those causes and conditions;

C. Establish priorities among projects, activities and areas as needed for the best and most efficient use of available resources;

D. Develop, administer and operate programs to reduce poverty with particular emphasis on self-help approaches and programs to promote economic opportunities through affirmative action;

E. Initiate, sponsor and provide programs and services responsive to the needs of the poor that are not otherwise being met;

F. Promote interagency cooperation and coordination of all services and activities in the service area that are related to the purposes of this chapter;

G. Establish effective procedures by which the poor and other concerned area residents may influence the character of programs affecting their interests, provide for their regular participation in the implementation of those programs and provide technical and other support needed to enable low-income and neighborhood groups to secure on their own behalf available assistance from public and private sources;

H. Join with and encourage business, labor and other private groups and organizations to undertake, together with private officials and agencies, activities in support of the purposes of this chapter that will result in the increased use of private resources and capabilities in providing social and economic opportunities to low-income citizens;

I. Enter into contracts with federal, state and local public agencies and private agencies and organizations, businesses and individuals as necessary to carry out the purposes of this chapter; and

J. Receive funds from federal, state and local public and private sources as appropriate to carry out the purposes of this chapter.

§5327. Allocation of Community Services Block Grant funds

1. Distribution of Community Services Block Grant funds. In accordance with Title 5, section 1670, the ~~bureau~~ division shall administer and distribute to community action agencies Community Services Block Grant funds received from the Federal Government. The ~~bureau~~ division may expend up to but not more than 5% of the block grant per fiscal year

to carry out its administrative functions under this chapter.

2. Community action agencies; priority. Of the amount passed through to local agencies, community action agencies must receive first priority in the allocation of Community Services Block Grant funds. These funds must be distributed according to a formula determined annually as follows.

A. Twenty percent of the amount passed through to local agencies must be divided equally among all designated agencies.

B. The balance of the funds must be distributed according to rules adopted by the ~~bureau~~ division.

3. Block grant proposals. Proposals for Community Services Block Grant funds submitted to the Legislature by the ~~bureau~~ division in accordance with Title 5, section 1670 must be developed and must:

A. Include a description of current allocation of Community Services Block Grant funds and how the plan proposes to change that allocation;

B. Retain the absolute minimum necessary for administrative costs; and

C. Provide for maximum flexibility within community action agencies for the use of Community Services Block Grant funds.

§5328. Confidentiality of records

1. Confidentiality. Records containing the following information are confidential and may not be considered public records for the purpose of Title 1, section 402, subsection 3:

A. ~~Any information~~ Information acquired by a state agency, municipality, district, private corporation, copartnership, association, fuel vendor, private contractor, individual or an employee or agent of any of those persons or entities, providing services related to authorized programs of the ~~bureau~~ division or programs administered by community action agencies, when that information was provided by the applicant for those services or by ~~any~~ a 3rd person; and

B. ~~Any statements~~ Statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph A in connection with an application for services related to authorized programs of the ~~bureau~~ division or programs administered by community action agencies.

2. Exceptions. Notwithstanding subsection 1, ~~any~~ a person or agency directly involved in the administration or auditing of authorized programs of the ~~bureau~~ division or programs administered by community action agencies and ~~any~~ an agency of the State with a legitimate reason to know must be given access to those records described in subsection 1.

3. Waiver of protection. Nothing in this section may be construed to limit in any way the right of any person whose interest is protected by this section to waive in writing the benefits of protection.

4. Reports to State Government or Federal Government. Notwithstanding subsection 1, the ~~bureau~~ division may make ~~such~~ full and complete reports concerning its administration of authorized programs as may be required by the Federal Government, ~~any~~ an agency or department of the Federal Government or the Legislature.

§5329. Rules

The ~~bureau~~ division shall adopt rules to carry out the requirements of this chapter.

PART E

Sec. E-1. 2 MRSA §6, sub-§4, as amended by PL 1995, c. 309, §2, c. 368, Pt. UU, §1 and c. 465, Pt. A, §2, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director, Bureau of Parks and Lands;

Director, Bureau of Employee Relations;

Director, Bureau of Air Quality Control;

Director, Bureau of Land and Water Quality;

Director, Bureau of Oil and Hazardous Materials and Solid Waste Control;

Director, Bureau of Administration;

Executive Director, Board of Environmental Protection; and

Director, Office of Consumer Credit Regulation.

Sec. E-2. 5 MRSA §935, as amended by PL 1987, c. 349, Pt. H, §§2 and 3, is further amended to read:

§935. Department of Conservation

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Department of Conservation.

Notwithstanding any other provision of law, these positions and their successor positions ~~shall be~~ are subject to this chapter:

~~A. Director, Administrative Services;~~

A-1. Director, General Services;

B. Deputy Commissioner;

C. Director, Bureau of Forestry;

D. Director, Maine Geological Survey;

E. Executive Director, Maine Land Use Regulation Commission;

~~F. Director, Bureau of Parks and Recreation Lands;~~

G. Deputy Director, Bureau of Public Parks and Lands;

H. Forest Insect Manager, Bureau of Forestry;

I. Assistant to the Commissioner for Public Information;

J. Assistant to the Commissioner; and

K. State Supervisor, Forest Fire Operations.

Sec. E-3. 12 MRSA §551, as enacted by PL 1975, c. 339, §6, is repealed.

Sec. E-4. 12 MRSA §§551-A and 551-B are enacted to read:

§551-A. Definitions

As used in this chapter, chapter 202-B or 203, unless the context otherwise indicates, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Parks and Lands.

2. Director. "Director" means the Director of the Bureau of Parks and Lands.

3. Historic site. "Historic site" means any area of land, with or without buildings, improvements or other structures, managed by the former Bureau of Parks and Recreation or designated by the director for public use wholly or primarily because of its historical, archaeological or scientific interest or value.

4. Park. "Park" means all lands other than historic sites managed by the former Bureau of Parks and Recreation or designated by the director as a part, as defined in chapter 203.

5. Public land. "Public land" means all lands managed by the former Bureau of Public Lands,

including public reserved lands as defined in section 585, subsection 2, paragraph B; submerged lands as defined in section 558-A, subsection 1, paragraph D; and nonreserved public lands.

6. Nonreserved public lands. "Nonreserved public lands" means all public domain lands, public islands in inland and coastal waters, lands acquired under section 8003, subsection 3, paragraph N, lands acquired by the bureau pursuant to other lawful authority and any other lands the management and control of which are not otherwise provided for by law.

§551-B. Planning and Management of Public Lands

The bureau shall plan and manage public lands in a manner consistent with the principles of multiple land use and shall produce a sustained yield of products and services in accordance with both prudent and fair business practices and the principles of sound planning.

Sec. E-5. 12 MRSA §552, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by repealing and replacing the headnote to read:

§552. Bureau of Parks and Lands; powers and duties with respect to public lands

Sec. E-6. 12 MRSA §553, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended by repealing and replacing the headnote to read:

§553. Duties of the Director of the Bureau of Parks and Lands with respect to public lands

Sec. E-7. 12 MRSA §553, sub-§1, as enacted by PL 1975, c. 339, §6, is repealed.

Sec. E-8. 12 MRSA §553, sub-§3, ¶C, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

C. Make a written report on or before the 30th day of the first regular legislative session to the joint standing committee of the Legislature having jurisdiction over natural resources matters, containing a complete accounting of the income and expenditures ~~of the Bureau of Public Lands pertaining to public lands~~ during the biennium ending on the 31st day of December next preceding the convening of ~~such~~ that session. The report ~~shall~~ must also contain a summary of the bureau's management activities during the past year regarding timber, recreation, wildlife and other subjects as appropriate. The director shall also report on any gates or other constructed barriers to public access by motor vehicle to any public reserved lands, when these block the sole

or primary motor vehicle access, whether or not these barriers are located on public or private land and whether or not they are owned by the State or private parties. The director shall also report on any campsite or recreational facility fees charged under ~~Title 12~~, section 585, subsection 4, paragraph E;

Sec. E-9. 12 MRSA §553, sub-§3, ¶E, as amended by PL 1977, c. 360, §34, is further amended to read:

E. Receive all ~~moneys~~ money, securities and other things of value accruing to the State from the sale of public lands, timber and grass and other rights and things of value from the public land under the care, custody, control or management of the ~~Bureau of Public Lands~~ bureau, or in payment for timber, grass and other things of value cut or taken by trespassers, or from forfeiture of a bond or a deposit when a contractor does not fulfill the terms of ~~his~~ the contract or comply with state regulations, or as a result of a compromise or settlement of any claim; excepting only the first \$20,000 in the aggregate of any ~~moneys~~ money accruing from the alienation of rights to mine upon lands described in section 552, subsection 1, paragraphs A and E, or other income arising out of mining operations, actually received during any fiscal year. ~~Such~~ This first \$20,000 and every portion thereof accruing from ~~such~~ these mining operations ~~shall~~ must be paid into the Maine Geological Survey ~~in accordance with the provisions of Title 10, sections 2105 and 2162;~~

Sec. E-10. 12 MRSA §555, as enacted by PL 1975, c. 339, §6, is amended by repealing and replacing the headnote to read:

§555. Trespass on public lands

Sec. E-11. 12 MRSA §555, sub-§§1 and 2, as enacted by PL 1975, c. 339, §6, are amended to read:

1. Director to prosecute trespass cases. ~~The Director of the Bureau of Public Lands is authorized and directed to~~ director shall prosecute cases of trespass on public lands under the care, custody, control or management of the ~~Bureau of Public Lands~~ bureau, including public reserved lands and lands transferred pursuant to the provisions of section 552, subsection 1, paragraph E.

2. Liability of trespassers. If any person unlawfully enters or trespasses upon ~~state owned~~ public lands or upon any public reserved lot, while ~~such~~ that land is under the care, custody, control or management of the ~~Bureau of Public Lands~~ bureau, by cutting, destroying, taking or carrying away any trees,

timber, wood, grass or other materials under or upon ~~said~~ those lands without the express written consent of the bureau, ~~he~~ that person and all persons participating ~~therein~~ in those actions are trespassers, jointly and severally liable in damages for such trespasses, and they may be sued ~~therefor~~ for trespass in any county. The measure of damages is the highest price ~~such~~ those materials would bring at the usual place of sale ~~thereof~~ of the materials. If the trespass is willful, the court shall assess treble damages and the costs of maintaining the action. For the purposes of this section, a trespass ~~shall be conclusively deemed to have been~~ is willful if the land upon which the materials were cut, destroyed or taken, or from which the materials were carried away, was posted with conspicuous notices of state ownership at or near the point where roads entered into the state-owned land; or if the land is otherwise posted or identified in a manner reasonably likely to come to the attention of intruders; or if the intruder had actual knowledge of the fact of state ownership.

Sec. E-12. 12 MRSA §556, as enacted by PL 1975, c. 339, §6, is amended by repealing and replacing the headnote to read:

§556. Public access to public lands

Sec. E-13. 12 MRSA §557, as amended by PL 1991, c. 427, §1, is further amended to read:

§557. Nonreserved Public Lands Management Fund

1. Nonreserved Public Lands Management Fund. To accomplish the purposes of this chapter, there is established a the Nonreserved Public Lands Management Fund. All income received by the ~~Bureau of Public Lands~~ bureau pursuant to section 553, subsection 3, paragraph E, excepting income from the public reserved lots and from submerged lands, must be recorded on the books of the State in a separate account and deposited with the Treasurer of State, to be credited to the Nonreserved Public Lands Management Fund.

2. Expenditure of funds. All ~~moneys~~ money credited to the Nonreserved Public Lands Management Fund ~~shall~~ must be used to produce a sustained yield of goods and services from ~~such~~ those lands for multiple use purposes in accordance with the principles of sound planning and sound business practice and for no other purpose. Any balance remaining ~~shall~~ continue continues from year to year as a fund available for the purposes set out in this section and for no other purpose.

3. Compensation to municipalities. Notwithstanding the other provisions of this section, 25% of the net revenues from any nonreserved public lands, excluding submerged lands, public reserved lands and

Baxter State Park, and excluding proceeds from the sale of land, located in municipalities and managed by the ~~Bureau of Public Lands~~ bureau, shall ~~must~~ be returned by the Treasurer of State to the municipality ~~wherein~~ where the land generating the income is located, to be used for municipal purposes. With respect to those public reserved lands ~~which that~~ were located in townships or tracts organized into plantations as of March 1, 1974, when any such plantation, subsequent to that date, becomes incorporated into a town, 75% of any income from residential leasehold camps, excluding any income or proceeds from the sale, exchange or relocation of any of these camps under section 590, and 25% of any other income from ~~such that~~ public reserved land shall ~~must~~ be returned by the Treasurer of State to the municipality ~~wherein~~ ~~such~~ where that public reserved land is located, to be used for municipal purposes. With respect to stumpage income from timber located on public reserved lands and leased pursuant to section 585, subsection 4, paragraph K, 50% of the income shall ~~must~~ be returned by the Treasurer of State to the lessee for its own purposes. The director may approve the handling of income from sales or permits for up to \$500 by the lessees. The lessees shall submit a semiannual accounting of this income and payment for the State's share of the income.

4. Legislative approval of budget. Expenditures from the Nonreserved Public Lands Management Fund are subject to legislative approval in the same manner as appropriations from the General Fund. ~~No money~~ Money may not be expended without allocation by the Legislature. The joint standing committee of the Legislature having jurisdiction over appropriations ~~matters~~ shall ~~must~~ approve the allocation.

Sec. E-14. 12 MRSA §558-A, sub-§7, as enacted by PL 1983, c. 819, Pt. A, §10, is amended to read:

7. Consultation. The director shall consult with the Commissioner of Conservation, Commissioner of Marine Resources, Commissioner of Inland Fisheries and Wildlife and such other agencies or organizations as ~~he deems~~ the director considers appropriate in developing and implementing terms, conditions and consideration for conveyances under this section. Notwithstanding section ~~551~~ 551-B, the director may determine to make proprietary conveyances under this section solely on the basis of the issuance of environmental or regulatory permits by other appropriate state agencies.

Sec. E-15. 12 MRSA §585, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Responsibility. The commissioner has the care, custody, control and responsibility for the

management of the public reserved lands in the unincorporated areas of the State. The commissioner shall prepare, revise from time to time and maintain a comprehensive management plan for the management of the public reserved lands in accordance with the guidelines in this chapter. The management plan must provide for a flexible and practical approach to the coordinated management of the public reserved lands. In preparing, revising and maintaining this management plan, the commissioner, to the extent practicable, shall compile and maintain an adequate inventory of the public reserved lands, including not only the timber on those lands but also the other multiple use values for which the public reserved lands are managed. In addition, the commissioner shall consider all criteria listed in section 584 for the location of public reserved lands in developing the management plan. The commissioner is entitled to the full cooperation of the Maine Geological Survey, Department of Inland Fisheries and Wildlife, ~~Bureau of Parks and Recreation~~, Maine Land Use Regulation Commission and State Planning Office in compiling and maintaining the inventory of the public reserved lands. The commissioner shall consult with those agencies as well as other appropriate state agencies in the preparation and maintenance of the comprehensive management plan for the public reserved lands. This plan shall ~~must~~ provide for the demonstration of appropriate management practices that will enhance the timber, wildlife, recreation, economic and other values of the lands. When prepared, all management of the public reserved lands, to the extent practicable, shall ~~must~~ be in accordance with this management plan.

Within the context of the comprehensive management plan, the commissioner, after adequate opportunity for public review and comment, shall adopt specific action plans for each of the units of the public reserved lands system. Each action plan shall ~~must~~ include consideration of the related systems of silviculture and regeneration of forest resources and shall ~~must~~ provide for outdoor recreation, including remote, undeveloped areas, timber, watershed protection, wildlife and fish. The commissioner shall complete the action plans no later than December 31, 1989, and shall revise them from time to time as necessary. The commissioner shall provide adequate opportunity for public review and comment on any substantial revision of an action plan. Management of the public reserved lands before the action plans are completed must be in accordance with all other provisions of this section.

Sec. E-16. 12 MRSA §598-A, sub-§2, as enacted by PL 1993, c. 639, §1, is repealed.

Sec. E-17. 12 MRSA §598-A, sub-§2-A is enacted to read:

2-A. Certain lands of the Bureau of Parks and Lands. Lands under the care, custody, control and management of the Bureau of Parks and Lands, including:

A. Lands that constitute a state park or historic site as those terms are defined in section 5016;

B. Lands that constitute the Allagash Wilderness Waterway as defined in chapter 206;

C. Lands used for public boat facilities under the provisions of Title 38, chapter 1, subchapter VIII, including launching ramps, locks, parking sites and access roads;

D. Public reserved lands as defined in section 585, subsection 2, paragraph B; and

E. Nonreserved public lands as defined in section 5016.

Designated lands do not include: submerged lands; and all parcels of public reserved land in the towns of Bradley, LaGrange and Bradford held by the Bureau of Public Lands on January 1, 1994.

Sec. E-18. 12 MRSA §598-A, sub-§3, as enacted by PL 1993, c. 639, §1, is repealed.

Sec. E-19. 12 MRSA §602, sub-§1, as amended by PL 1975, c. 771, §126, is further amended to read:

1. Acquire land; license; eminent domain. With respect to lands designated by the director as parks or historic sites, with the consent of the Governor, to acquire in behalf of the State, land or any interests therein in land within this State, with or without improvements, by purchase or gift, and by eminent domain and with like consent to sell and convey such those lands or interests therein in those lands, or lease the same, or by revocable license or agreement, or grant to any person, firm or corporation exclusive rights and privileges to the use and enjoyment of portions of such those lands. Any such license, lease or agreement granted or entered into shall must be canceled or revoked after due notice of intention to cancel or revoke the same license, lease or agreement by action of the bureau, when the use for which said that license was given shall have has been abandoned, or materially modified, or whenever the conditions imposed in any license, lease or agreement shall have been broken. The right of eminent domain shall may not be exercised to take any area or areas in any one park which that singly or collectively exceed 200 acres, nor shall may it be exercised to take any developed or undeveloped mill site or water power privilege in whole or in part or any land used or useful in connection therewith with any of these areas, or any land being utilized for any industrial enterprise.

Prior to the exercise of any eminent domain power, the bureau shall notify the owners of any lands proposed to be acquired and shall, at the request of such landowners, afford such landowners with the opportunity of a public hearing to testify as to the necessity and propriety of taking such lands.

Sec. E-20. 12 MRSA §602, sub-§4, as amended by PL 1991, c. 9, Pt. E, §8, is further amended to read:

4. Fees for services and accommodations. With the consent of the Governor, the bureau may:

A. Furnish accommodations and render services to the public on state parks and parks under state control; and

B. Charge reasonable fees for ~~such~~ those services and accommodations.

All fees received under this subsection accrue to the General Fund, except that, effective July 1, 1990, all revenues resulting from an increase in fees in the Allagash Wilderness Waterway accrue to a dedicated revenue account to be used for capital improvements in the Allagash Wilderness Waterway ~~and, in fiscal years 1990-91 and 1991-92 only, engineering plans for reconstruction of Churchill Dam.~~ In cases where fees may be more efficiently collected through 3rd party contracts, a percentage of the fee may be retained by the contractor for services, as agreed upon by the bureau.

Fifteen percent of all day use and camping fees received under this subsection in any ~~state-owned land under jurisdiction of the bureau~~ lands owned by the former Bureau of Parks and Recreation or designated as parks and historic sites under jurisdiction of the bureau must be apportioned and paid to all municipalities having ~~such land~~ those lands within their boundaries. In determining the payment to each municipality, the bureau shall assign one unit per front foot for each foot of lake, pond, ocean or major river frontage and 5 units for each acre of all ~~said~~ lands within the municipality. Frontage and acreage must be determined as of April 1st for the year in which revenue is being apportioned and computed to the nearest whole unit. The bureau shall increase the fees charged by it under this subsection by an amount that will reflect the loss of revenue to the State occasioned by such payment to the municipalities;

Sec. E-21. 12 MRSA §602, sub-§12, as amended by PL 1987, c. 141, Pt. B, §9, is further amended to read:

12. Eminent domain. When land designated as a park or historic site is taken by eminent domain, the proceedings for such purpose ~~shall must~~ be in accordance with Title 35-A, chapter 65;

Sec. E-22. 12 MRSA §602, sub-§13, as amended by PL 1973, c. 460, §19, is further amended to read:

13. Information for operators of snowmobiles. To mark and clear snowmobile trails and to provide educational and informational materials for the use of operators of snowmobiles. The ~~Bureau of Parks and Recreation~~ bureau may charge a reasonable fee for ~~said~~ those services and materials when the ~~moneys~~ money credited to it under this subsection are insufficient to satisfy the demand for ~~said~~ those services and materials. All fees so collected ~~shall~~ must be deposited in the ~~State Park and Recreation~~ bureau's Snowmobile Trail Fund.

Sec. E-23. 12 MRSA §602, sub-§16, as amended by PL 1983, c. 819, Pt. A, §12, is further amended to read:

16. Forest management. The bureau shall manage forested areas within state parks to preserve to the maximum practicable extent their natural recreational and scenic qualities. The director may authorize wood harvesting on state park lands when the wood is to be used ~~by the bureau~~ at state parks and historic sites, when cutting is required by deed conditions on specific lots or when necessary to improve wildlife habitat, control insect infestation and other disease, reduce the risk of fire or other hazards, improve the recreational and aesthetic quality of the park lands or demonstrate exemplary multiple use forest management techniques within a demonstration forest area established on state park land for educational purposes. All cutting ~~shall be~~ is subject to the following restrictions:

A. The cutting may not impair the recreational use, aesthetic qualities or natural values of the land;

B. The cutting ~~shall~~ must be carried out in accordance with a written management plan certified by a registered professional Maine forester that is available in the principal offices of the bureau for public review and comment at least 60 days prior to cutting;

C. The cutting ~~shall~~ must be consistent with the management objectives of the bureau for state parks and historic sites; and

D. The cost of these timber management activities ~~shall~~ must be paid from revenues received from cutting. The balance of these receipts ~~shall~~ must go to the General Fund.

Sec. E-24. 12 MRSA §605-A, first paragraph, as enacted by PL 1991, c. 591, Pt. G, §5, is amended to read:

Unless otherwise provided, all money received by the bureau in user fees and other payments for services for parks, historic sites and the Allagash Wilderness Waterway must be deposited with the Treasurer of State to be credited to the General Fund.

Sec. E-25. 12 MRSA §678, as amended by PL 1973, c. 460, §17, is further amended to read:

§678. Allocation of funds

~~All moneys~~ Except as provided in section 602, subsection 4, all money received by the bureau ~~shall~~ with respect to the operation and management of the Allagash Wilderness Waterway must be deposited with the Treasurer of State to be credited to the General Fund.

Sec. E-26. 12 MRSA §5013, sub-§3, as repealed and replaced by PL 1977, c. 674, §14, is repealed and the following enacted in its place:

3. Bureau of Parks and Lands. The Bureau of Parks and Lands, which is under the direction and supervision of a director, with the assistance of a deputy director. The director and deputy director are appointed by, and serve at the pleasure of, the commissioner; and

Sec. E-27. 12 MRSA §5013, sub-§4, as repealed and replaced by PL 1977, c. 674, §14, is repealed.

Sec. E-28. 12 MRSA §5016 is enacted to read:

§5016. Bureau of Parks and Lands

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

A. "Bureau" means the Bureau of Parks and Lands.

B. "Historic site" means any area of land, with or without buildings, improvements or other structures, managed by the former Bureau of Parks and Recreation or designated by the director for public use wholly or primarily because of its historical, archaeological or scientific interest or value.

C. "Park" means all lands other than historic sites managed by the former Bureau of Parks and Recreation or designated by the director as a part, as defined in chapter 203.

D. "Public land" means all lands managed by the former Bureau of Public Lands, including public reserved lands as defined in section 585, subsection 2, paragraph B; submerged lands as defined

in section 558-A, subsection 1, paragraph D; and nonreserved public lands.

E. "Nonreserved public lands" means all public domain lands, public islands in inland and coastal waters, lands acquired under section 8003, subsection 3, paragraph N, lands acquired by the bureau pursuant to other lawful authority and any other lands the management and control of which are not otherwise provided for by law.

2. Bureau of Parks and Lands established.

There is established within the department the Bureau of Parks and Lands, which shall carry out the responsibilities of state government relating to parks, historic sites, public lands and public reserved lands. The bureau shall also carry out all other duties relating to recreation, the Allagash Wilderness Waterway, the Snowmobile Trail Fund, public facilities for boats, the ATV Recreational Management Fund, the Maine Trails System and any other responsibilities of the former Bureau of Parks and Recreation and Bureau of Public Lands.

3. Director and deputy director. The executive head of the bureau is the director. The director is assisted in executive duties by a deputy director. The director and deputy director shall attend personally to the duties of their offices as far as practicable.

Sec. E-29. Legislative intent; submission of legislation. It is the intent of the Legislature to combine the Bureau of Public Lands and the Bureau of Parks and Recreation within the Department of Conservation into the Bureau of Parks and Lands. It is also the intent of the Legislature that lands currently managed as public lands and public reserved lands continue to be managed as public lands and public reserved lands and that lands currently managed as parks and historic sites continue to be managed as parks and historic sites. It is also the intent of the Legislature to make only those statutory changes needed to combine the 2 bureaus at this time and that a comprehensive review of all relevant statutes be completed by the Department of Conservation by December 31, 1996. Upon completion of the review of all relevant statutes, the department shall submit a proposal to the Legislature for a unified statute on the establishment, powers and duties of the Bureau of Parks and Lands.

Sec. E-30. Maine Revised Statutes amended; Bureau of Parks and Lands; revision clause. Except as provided in the Maine Revised Statutes, Title 12, section 598-A, subsection 2-A, section 602, subsection 4 and section 5016, wherever in the Maine Revised Statutes the words "Bureau of Public Lands," "Parks and Recreation Bureau" or "Bureau of Parks and Recreation" appear or reference is made to those words, they are amended

to read and mean "Bureau of Parks and Lands," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. E-31. Transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the former Bureau of Parks and Recreation and Bureau of Public Lands to the new Bureau of Parks and Lands within the Department of Conservation.

1. Except as otherwise provided, the Bureau of Parks and Lands is the successor in every way to the powers, duties and functions of the former Bureau of Parks and Recreation and Bureau of Public Lands.

2. All accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in the accounts of the former Bureau of Parks and Recreation and the Bureau of Public Lands remain with each specific account, but the accounts are within the new unit of the Bureau of Parks and Lands.

3. All Rules and procedures in effect, in operation or adopted on the effective date of this Act in or by the former Bureau of Parks and Recreation and Bureau of Public Lands or any administrative units and officers remain in effect until rescinded, terminated, revised or amended by the proper authority.

4. All contracts, agreements, leases, grants and compacts in effect on the effective date of this Act in the former Bureau of Parks and Recreation and Bureau of Public Lands remain in effect in the new Bureau of Parks and Lands until rescinded, terminated, revised or amended by the proper authority.

5. All authorized and allocated positions of the former Bureau of Parks and Recreation and Bureau of Public Lands remain authorized, except as otherwise provided. All employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits. Employees who are members of collective bargaining units on the effective date of this Act remain members and retain all rights, privileges and benefits provided by their collective bargaining agreements with respect to state service. Employees who are members of the Maine State Retirement System remain members of the Maine State Retirement System.

6. All records, property and equipment previously belonging to or allocated for the use of the former Bureau of Parks and Recreation and Bureau of Public Lands must be transferred to the new Bureau of Parks and Lands. All property and equipment must be transferred to the Bureau of Parks and Lands, but remain the property of the program or account from which the initial purchases were made.

Sec. E-32. Maine Revised Statutes amended; Natural Resources Information and Mapping Center; revision clause. Wherever in the Maine Revised Statutes the words "Maine Geological Survey" or "Natural Areas Program" appear or reference is made to those words, they are amended to read and mean "Natural Resources Information and Mapping Center," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. E-33. Transition provisions.

1. The Natural Resources Information and Mapping Center is the successor in every way to the powers, duties and functions of the Maine Geological Survey and the former Natural Areas Program.

2. All existing rules, regulations and procedures in effect, in operation or promulgated in or by the Maine Geological Survey or any of its administrative units or officers and the Natural Areas Program or any of its administrative units or officers, are in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts currently in effect in the Maine Geological Survey and the Natural Areas Program continue in effect.

4. Any positions authorized or allocated subject to the personnel laws to the former Maine Geological Survey and the former Natural Areas Program are transferred to the Natural Resources Information and Mapping Center and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for use of the former Maine Geological Survey and the former Natural Areas Program become, on the effective date of this Act, part of the property of the Natural Resources Information and Mapping Center.

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Maine Geological Survey or the Natural Areas Program may be utilized by the Natural Resources Information and Mapping Center until existing supplies of those items are exhausted.

PART F

Sec. F-1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1995, c. 395, Pt. C, §1 and amended by c. 465, Pt. A, §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;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections; and

Associate Commissioner for Juvenile Services, Department of Corrections.

Sec. F-2. 5 MRSA §936, as enacted by PL 1983, c. 729, §4, is repealed and the following enacted in its place:

§936. Department of Corrections

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

A. Associate Commissioner for Adult Services;

B. Associate Commissioner for Juvenile Services; and

C. Director, Policy, Legislative and Information Services.

Sec. F-3. 5 MRSA §7053, sub-§1, as amended by PL 1987, c. 320, is further amended to read:

1. Define intermittent positions. Define intermittent positions and ~~shall~~ must in the definition limit the use of any position to employment for not more than ~~500~~ 1040 hours in any consecutive 12-month period;

Sec. F-4. 15 MRSA §3005, as amended by PL 1981, c. 493, §101, is further amended to read:

§3005. Forms, other than court forms, reporting formats, and other standardized written materials

All forms, reporting formats, and other standardized written materials necessary to fulfill the requirements of this Part ~~shall~~ must be uniform for all state and local agencies providing services according to the provisions of this Part; and ~~such~~ those forms, reporting

formats, and other standardized written materials ~~shall~~ must be developed and approved jointly by the Department of ~~Mental Health and Mental Retardation~~ Corrections and the Department of Human Services.

Sec. F-5. 15 MRSA §3314, sub-§1, ¶F, as enacted by PL 1977, c. 520, §1, is amended to read:

F. The court may commit the juvenile to the Maine Youth Center. Whenever a juvenile is committed to the Maine Youth Center, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a commitment to the Maine Youth Center, which continues to be governed by section 3313.

Sec. F-6. 15 MRSA §3314, sub-§2, as amended by PL 1989, c. 875, Pt. E, §21 and affected by §22, is further amended to read:

2. Suspended disposition. The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204, as the court may order and that is administered pursuant to the provisions of Title ~~34~~ 34-A, chapter ~~424~~ 5, subchapter ~~V-A~~ IV, except that in no case may the court impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile reside outside the juvenile's home in a setting satisfactory to the juvenile caseworker if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

Revocation of probation is governed by the procedure contained in Title 17-A, sections 1205, 1205-A and 1206, except that Title 17-A, section 1206, subsection 7-A, does not apply, provided that a disposition under subsection 1, paragraph F, may be modified to a disposition under subsection 1, paragraph H.

Sec. F-7. 15 MRSA §3314, sub-§4, as amended by PL 1993, c. 354, §9, is further amended to read:

4. Medical support. Whenever the court commits a juvenile to the Maine Youth Center or to the Department of Human Services or places a juvenile on a period of probation, it ~~may~~ shall require the parent or legal guardian to provide medical

insurance for or contract to pay the full cost of any medical treatment, mental health treatment, substance abuse treatment and counseling that may be provided to the juvenile while the juvenile is committed, including while on entrustment or on probation, unless it determines that such a requirement would create an excessive hardship on the parent or legal guardian, or other dependent of the parent or legal guardian, in which case it shall require the parent or legal guardian to pay a reasonable amount toward the cost, the amount to be determined by the court.

Sec. F-8. 15 MRSA §3315, sub-§3 is enacted to read:

3. Court review of determination. Whenever a court makes a determination pursuant to section 3314, subsection 1, paragraph F or section 3314, subsection 2, that determination must be reviewed by the court not less than once every 18 months until the juvenile is discharged or no longer residing outside the juvenile's home.

Sec. F-9. 15 MRSA §3316, sub-§2, ¶A, as amended by PL 1993, c. 354, §11, is further amended to read:

A. A commitment of a juvenile to the ~~Department of Corrections, including a commitment to~~ the Maine Youth Center, pursuant to section 3314, must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits or extends the indeterminate commitment, as long as the court does not limit the commitment to less than one year nor extend the commitment beyond a juvenile's 21st birthday and as long as an order does not result in a commitment of less than one year, unless the commitment is for an indeterminate period not to extend beyond the juvenile's 21st birthday. Nothing in this Part may be construed to prohibit the provision to a juvenile following the expiration of the juvenile's term of commitment of services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; except that these services may not be extended beyond the juvenile's 21st birthday.

Sec. F-10. 15 MRSA §3317, as amended by PL 1991, c. 493, §25, is further amended to read:

§3317. Disposition after return to Juvenile Court

In instances of commitment of a juvenile to the Department of Human Services or the Maine Youth Center or when the juvenile is under a specified period of probation, the ~~commissioner of the department, the superintendent of the youth center or the Director of Probation and Parole~~ Commissioner of Human Services or the commissioner's designee or the

Commissioner of Corrections or the commissioner's designee following the ~~commitment~~ disposition may for good cause petition the Juvenile Court having original jurisdiction in the case for a judicial review of the disposition, including extension of the period of commitment or period of probation. In all cases in which a juvenile is returned to a Juvenile Court, the Juvenile Court may make any of the dispositions otherwise provided in section 3314. When reviewing a commitment to the Department of Human Services, the court shall consider efforts made by the Department of Corrections and the Department of Human Services to reunify the juvenile with the juvenile's parents or custodians, shall make a finding regarding those efforts and shall return custody of the juvenile to a parent or legal custodian if the return of the juvenile is not contrary to the welfare of the juvenile. A petition for judicial review of a disposition committing the child to the Department of Human Services must be served on the parents at least 7 days prior to the hearing.

Sec. F-11. 17-A MRSA §1204, sub-§1-A, as amended by PL 1995, c. 368, Pt. R, §2, is further 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 Department of Corrections, a supervision fee of between \$10 and \$50 per month, as determined by the court, for the term of probation. 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. F-12. 17-A MRSA §1204, sub-§1-B, as amended by PL 1995, c. 368, Pt. R, §3, is further amended to read:

1-B. Upon the request of the Department of Corrections, the court shall attach as a condition of probation that the convicted person pay, through the Division of Probation and Parole department, an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation. 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 must be deposited into the department's Correctional Program Improvement Fund, except that when authorized by the Department of Corrections, a person on probation may be required to pay fees directly to a provider of electronic monitoring, 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.

Sec. F-13. 17-A MRSA §1205, sub-§1, as amended by PL 1987, c. 315, §1, is further amended to read:

1. If a probation officer has probable cause to believe that a person under the supervision of the Division of Probation and Parole on probation has violated a condition of his that person's probation, he that officer may arrest such the person or he may deliver a summons to such that person ordering him that person to appear for a court hearing on the alleged violation. If the probation officer ~~cannot~~ can not, with due diligence, locate the person in order to arrest him the person or serve a summons on him that person, he that officer shall file a written notice of this fact with the court ~~which that~~ placed the person on probation.

Sec. F-14. 17-A MRSA §1205-A, sub-§§2 to 4, as enacted by PL 1977, c. 510, §72, are amended to read:

2. The preliminary hearing ~~shall~~ must be held before ~~the district supervisor or such other an~~ official as may be designated by the ~~Director of Probation and Parole~~ Commissioner of Corrections. It ~~shall~~ must be held at a location as near to the place where the violation is alleged to have taken place as is reasonable under the circumstances. If it is alleged that the person violated probation because of the commission of a new offense, the preliminary hearing ~~shall be~~ is limited to the issue of identification, if probable cause on the new offense has been found by the District Court, or ~~he the person~~ has been indicted, has waived indictment or has been convicted.

3. At the preliminary hearing, the person alleged to have violated a condition of ~~his~~ probation has the right to confront and cross-examine persons who have information to give against ~~him that person~~, the right to present evidence on ~~his own~~ that person's behalf and the right to remain silent. If the hearing officer determines on the basis of the evidence before ~~him the~~ officer that there is not probable cause to believe that a condition of probation has been violated, ~~he the~~ officer shall terminate the proceedings and order the person on probation ~~forthwith~~ released at once from any detention resulting from the alleged violation. If ~~he the hearing officer~~ determines that there is such probable cause, ~~he the officer~~ shall prepare a written statement summarizing the evidence that was brought before ~~him the officer~~, and particularly describing that which supports the belief that there is probable cause. At the outset of the preliminary hearing, the ~~district supervisor hearing officer~~ shall inform the person of ~~his that person's~~ rights under this section and of the provisions of section 1206. ~~Such That~~ That person may waive, at the preliminary hearing, ~~his the~~ right to confront and cross-examine witnesses against ~~him that person~~, ~~his the~~ right to present evidence on ~~his own~~ that person's behalf and ~~his the~~ right to remain silent. No other rights may then be waived, nor ~~shall may~~ there be a waiver of the right to a preliminary hearing.

4. If, as a result of a preliminary hearing held under this section, there is a determination of probable cause, the ~~Director of Probation and Parole~~ Commissioner of Corrections, or ~~his the commissioner's~~ designated representative, may file with any court a motion for revocation of probation. The motion ~~shall~~ must incorporate the written statement prepared pursuant to subsection 3 and ~~shall must~~ be accompanied by an application for a summons ordering the person to appear before the court for a hearing on the alleged violation. The motion and the application ~~shall must~~ be filed without unnecessary delay. A copy of the motion ~~shall must~~ be furnished to the person on probation.

Sec. F-15. 17-A MRSA §1262, sub-§7, as enacted by PL 1985, c. 821, §15, is amended to read:

7. If, upon completion of the period of intensive supervision, the Department of Corrections, ~~through the Division of Probation and Parole~~, considering the supervision, guidance, assistance or direction that probation can provide, ~~deems determines~~ that probation should be reduced or terminated, it may, at any time, petition the court for reduction or early termination of probation in accordance with section 1202, subsection 3.

Sec. F-16. 17-A MRSA §1326, as amended by PL 1993, c. 147, §1, is further amended to read:

§1326. Time and method of restitution

When restitution is authorized, the time and method of payment or of the performance of the services must be specified. Except when the offender is placed on probation, monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is placed on probation, the compensation may be ordered paid to the Department of Corrections, ~~Division of Probation and Parole~~. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money. If the compensation is paid to the Department of Corrections, ~~Division of Probation and Parole~~, the office of the prosecuting attorney who prosecuted the case may request that the Commissioner of Corrections direct that the compensation be forwarded to the office of the prosecuting attorney, which shall make the disbursement to the victim or other authorized claimant as soon as possible.

Sec. F-17. 17-A MRSA §1345, sub-§3, as enacted by PL 1995, c. 136, §4, is amended to read:

3. The ~~Division of Probation and Parole~~ Department of Corrections is not responsible for supervision of community service work pursuant to this section.

Sec. F-18. 34-A MRSA §1403, sub-§2, as amended by PL 1985, c. 821, §19, is further amended to read:

2. Appointments. The commissioner's appointment powers are as follows.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary,

including those intermittent employees as defined in Title 5, section 7053 needed to offset the overtime costs related to unscheduled, unanticipated overtime. These intermittent positions may only be used at specific posts or work sites to be identified through an agreed-upon discussion process with labor.

B. The commissioner may appoint and set the salary for ~~an~~ 2 associate ~~commissioner~~ commissioners to assist in carrying out the responsibilities of the department.

(1) ~~The~~ An appointment ~~shall be~~ is 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 an associate commissioner, a person must have training and experience in general management.

C. The commissioner shall appoint the following officials to serve at ~~his~~ the pleasure of the ~~commissioner~~ commissioner:

(1) Associate Commissioner for Adult Services;

(1-A) Associate Commissioner ~~of Community Corrections~~ for Juvenile Services;

(2) Assistant to the Commissioner; and

(3) Director, ~~Correctional Program Policy, Legislative and Information Services.~~

Sec. F-19. 34-A MRSA §1403, sub-§3, as amended by PL 1991, c. 314, §§22 and 23, is further amended to read:

3. Delegation. The commissioner's delegation powers are as follows.

A. Unless a specific statute otherwise directs, the commissioner may delegate powers and duties given under this Title to the associate ~~commissioner~~ and to commissioners, chief administrative officers and regional correctional administrators.

B. The commissioner may empower the associate ~~commissioner~~ and commissioners, chief administrative officers and regional correctional administrators to further delegate powers and duties delegated to them by the commissioner.

B-1. Unless a specific statute otherwise directs, the commissioner may empower chief administrative officers to delegate powers and duties given to them by chapter 3 and may empower

regional correctional administrators to delegate powers and duties given to them by chapter 5.

~~C. The Associate Commissioner of Community Corrections~~ An associate commissioner or associate commissioners may be designated to assist in the development of community correctional programs at the county level and to coordinate activities of the department with each county and any county correctional advisory groups. ~~The Associate Commissioner~~ associate commissioner or associate commissioners may appoint staff to assist in carrying out this paragraph.

Sec. F-20. 34-A MRSA §1403, sub-§5-A is enacted to read:

5-A. Lease of Maine Youth Center building. Notwithstanding subsection 5 and Title 5, chapter 154, the commissioner may, with the approval of the Director of the Bureau of General Services, lease any building that the commissioner determines is no longer needed to be a part of the Maine Youth Center for the purpose of providing services to clients under such terms as the commissioner and director determine appropriate.

Sec. F-21. 34-A MRSA §3036, sub-§§3 and 4 are enacted to read:

3. Work release. Any client participating in the halfway house program who is also permitted to participate in a work release program is liable for the cost of board in the halfway house.

A. The reasonable cost of board for a client in a halfway house is fixed by the commissioner. In fixing the reasonable cost of the board to be paid, the commissioner shall take into consideration other state laws or judicial determinations that affect the client's income.

B. Funds received from clients for the board must be placed in the General Fund.

4. Work release transportation cost. Any client participating in the halfway house program who is also permitted to participate in a work release program is liable for an equitable share of the cost of the transportation to the work release job site if this transportation is arranged by the halfway house. Funds received from clients for work release transportation must be placed in the General Fund.

Sec. F-22. 34-A MRSA §3201, as amended by PL 1991, c. 656, is further amended to read:

§3201. Maintenance

The commissioner shall maintain the Maine State Prison at Thomaston, in Knox County, as the prison and penitentiary of the State, and shall confine,

employ and govern persons lawfully ~~committed to in the custody of~~ the department, as provided by law. The Maine Correctional Institution - Warren is established as a unit of the Maine State Prison.

Sec. F-23. 34-A MRSA §3266, sub-§1, as enacted by PL 1993, c. 459, §6, is amended to read:

1. Minimum security unit. The warden may establish a vocational training program at the minimum security unit to provide prisoners skills designed to assist in the acquisition and retention of employment following parole or discharge. The warden may employ prisoners at the minimum security unit in work involving public restitution.

Sec. F-24. 34-A MRSA §3401, as amended by PL 1983, c. 816, Pt. A, §41, is repealed and the following enacted in its place:

§3401. Establishment

The Maine Correctional Center in South Windham is established for the confinement and rehabilitation of persons, male and female, lawfully in the custody of the department, as provided by law.

Sec. F-25. 34-A MRSA §3403, sub-§1, ¶B, as amended by PL 1991, c. 314, §63, is further amended to read:

B. The superintendent shall provide for the safe-keeping or employment of persons committed to the department in order to teach them a useful trade or profession and to improve their mental and moral condition, which may include work involving public restitution.

Sec. F-26. 34-A MRSA §3403, sub-§3, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. F-27. 34-A MRSA §3802, sub-§1, ¶¶B and C, as enacted by PL 1983, c. 459, §6, are amended to read:

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318; ~~and~~

C. To rehabilitate juveniles committed to it on being adjudicated as having committed a juvenile crime under Title 15, section 3310, subsection 5; and

Sec. F-28. 34-A MRSA §3802, sub-§1, ¶D is enacted to read:

D. To protect the public from dangerous juveniles.

Sec. F-29. 34-A MRSA §3812, as enacted by PL 1983, c. 459, §6, is amended to read:

§3812. Discharge

1. Duty. The superintendent shall cause a juvenile client to be discharged from the center:

A. When the client becomes 21 years of age; ~~or otherwise reaches the end of the period of the Juvenile Court's commitment.~~

~~B. When the superintendent determines that the client has benefited optimally from the services and facilities of the center.~~

2. Power. The superintendent may cause a juvenile client to be discharged from the center when the superintendent determines that discharge is in the best interest of the client or that the client has benefited optimally from the services and facilities of the center.

Sec. F-30. 34-A MRSA §5001, sub-§2 and 3, as enacted by PL 1983, c. 459, §6, are repealed.

Sec. F-31. 34-A MRSA §5003, as enacted by PL 1983, c. 459, §6, is amended to read:

§5003. Prohibited acts

1. Interference with probation. A person 18 years of age or older is guilty of interference with probation if ~~he that person~~ willfully obstructs, intimidates or otherwise abets a probationer under the supervision and control of the ~~division department~~ and thereby causes or contributes to causing the probationer to violate the conditions of ~~his that person's~~ probation, after having been warned in writing by the ~~director commissioner~~ to end ~~his that person's~~ relationship or association with the probationer.

A. Interference with probation is a Class E crime, except that, notwithstanding Title 17-A, it ~~shall be~~ is punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

B. This subsection applies to interferences with the probation of probationers who are under the supervision and control of the ~~division department~~ at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision.

2. Interference with parole. A person 18 years of age or older is guilty of interference with parole if ~~he that person~~ willfully obstructs, intimidates or otherwise abets a parolee under the supervision and control of the ~~division department~~ and thereby causes or contributes to causing the parolee to violate the

conditions of ~~his~~ parole, after having been warned in writing by the ~~director~~ commissioner to end ~~his~~ that person's relationship or association with the parolee.

A. Notwithstanding Title 17-A, section 4-A, interference with parole ~~shall be~~ is punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

B. This subsection applies to interferences with the parole of parolees who are under the supervision and control of the ~~division~~ department at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision.

Sec. F-32. 34-A MRSA §5208, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Preparation of report. ~~The secretary of the board shall, after~~ After June 30th of each year, ~~send to the commissioner~~ shall prepare a detailed report of the work of the board and of the probation and parole activities ~~of the division~~ for the preceding fiscal year.

Sec. F-33. 34-A MRSA §5401, as amended by PL 1985, c. 821, §27, is repealed and the following enacted in its place:

§5401. Administration of probation and parole services

The Department of Corrections is charged with the administration of probation and parole services and the Intensive Supervision Program within the State.

Sec. F-34. 34-A MRSA §5402, as amended by PL 1989, c. 417, §§1 to 3, is further amended to read:

§5402. Duties and powers of the commissioner with respect to probation and parole services

1. Appointment. ~~The commissioner shall appoint the Director of Probation and Parole, subject to the Civil Service Law.~~

2. Duties. The ~~director~~ commissioner shall:

A. Promulgate and enforce rules for ~~the~~ field probation and parole ~~service~~ officers, juvenile caseworkers ~~and~~ and parole officers in correctional facilities and ~~for~~ Intensive Supervision Program officers;

B. Appoint, subject to the Civil Service Law, ~~district probation and parole supervisors~~ regional correctional administrators, field probation and parole officers, juvenile caseworkers, Intensive Supervision Program officers and such other employees as may be required to carry out ade-

quate supervision of all probationers ~~and of all~~ and of all parolees from the correctional facilities ~~and all~~ and all persons on intensive supervision and other persons placed under the supervision of an employee listed in this paragraph;

C. Prescribe the powers and duties of persons appointed under paragraph B;

D. Provide necessary investigation of any criminal case or matter, including presentence investigation and intensive supervision eligibility investigations, when requested by the court having jurisdiction;

E. Provide investigation when requested by the board;

F. Cooperate closely with the board, the criminal and juvenile courts, the chief administrative officers of correctional facilities and other correctional facility personnel;

G. Make recommendations to the board in cases of violations of the conditions of parole;

H. Issue warrants for the arrest of parole violators;

I. Notify the chief administrative officers of correctional facilities of determinations made by the board;

J. Divide the State into administrative districts and staff the districts;

K. Provide instruction and training courses for probation and parole officers, for Intensive Supervision Program officers and for juvenile caseworkers;

L. Be executive officer and secretary of the board; and

M. Aggregate the statistics contained in any reports the ~~division~~ department receives on individual probationers and make the aggregated statistics available to other state agencies provided the data is aggregated in such a way that statistics pertaining to any individual probationer ~~cannot~~ can not be disaggregated.

3. Powers. The ~~director~~ commissioner may:

A. Provide necessary specialized services and procedures for the constructive rehabilitation of juveniles;

B. Obtain psychiatric, psychological and other necessary services; and

C. Sign documents, including warrants and extradition papers, for the board when so instructed by the board;

~~D. With the approval of the commissioner, in special instances and in the absence or illness of the Assistant Director of Probation and Parole, delegate any responsibilities of the assistant director to a district supervisor.~~

~~(1) This delegation shall not exceed 20 working days.~~

~~(2) During the period of the delegation, the district supervisor has all the responsibilities and obligations of the assistant director; and~~

~~E. With the approval of the commissioner, delegate the responsibility to warn persons interfering with a probationer, parolee or a prisoner on intensive supervision to a district supervisor.~~

Sec. F-35. 34-A MRSA §5403, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. F-36. 34-A MRSA §5404, first ¶, as amended by PL 1989, c. 127, §14, is further amended to read:

In addition to duties prescribed by the ~~director~~ commissioner and by the court having jurisdiction, a probation and parole or intensive supervision program officer shall:

Sec. F-37. 34-A MRSA §5404, sub-§2, as amended by PL 1991, c. 845, §6, is further amended to read:

2. Arrest. Arrest, after completing the entry level and orientation training course prescribed by the ~~director~~ commissioner, in the following circumstances:

A. Arrest and return probation and parole violators upon request of the ~~chief administrative officer of a correctional facility~~ commissioner;

B. Arrest and return to a correctional facility persons released from the correctional facility under section 3035 or 3036 or transferred from the facility under section 3036-A; and

C. If the officer has probable cause to believe that a person under the supervision of the ~~Division of Probation and Parole~~ department has violated a condition of that person's probation or parole or intensive supervision, the officer may arrest that person.

Sec. F-38. 34-A MRSA §5404, sub-§3, ¶B, as amended by PL 1991, c. 845, §7, is further amended to read:

B. Supervise persons released from a correctional facility under section 3035, ~~if the chief administrative officer of the facility requests the supervision and the director agrees to the supervision or 3036~~ and supervise persons transferred to supervised community confinement under section 3036-A if the commissioner directs; ~~and~~

Sec. F-39. 34-A MRSA §5404, sub-§3, ¶C, as amended by PL 1989, c. 127, §14, is further amended to read:

C. Keep informed of the conduct and condition of each person placed under the officer's supervision and use suitable methods to encourage the person to improve that person's conduct and condition; and

Sec. F-40. 34-A MRSA §5404, sub-§3, ¶E is enacted to read:

E. Supervise the transition from institutional confinement for persons residing in a prerelease center if the commissioner directs.

Sec. F-41. 34-A MRSA §5405, as enacted by PL 1987, c. 154, §1, is repealed.

Sec. F-42. Maine Youth Center fence.

1. Personnel and equipment of the state military forces may be employed in the design and construction of a security fence around the Maine Youth Center if the Governor, or the Governor's designee, orders the necessary personnel and equipment into active service of the State. Any person ordered into active service of the State, for the purposes of this action, is considered a state employee for the purposes of the Maine Tort Claims Act and the person's liability is limited by that Act.

2. The design and construction of the security fence around the Maine Youth Center are exempt from the requirements of the Maine Revised Statutes, Title 5, chapter 153.

Sec. F-43. Department of Corrections; lease purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Corrections may enter into financing arrangements for the acquisition of an electronic intrusion system at the Maine State Prison. The financing agreement may not exceed 5 years in duration and \$280,000 in principal costs. The interest rate is estimated at 6.3%, with total interest costs over the duration of the financing arrangement estimated at \$47,140. The annual principal and interest costs must

be paid from the All Other line category appropriation to the State Prison account. The financing agreement must provide that the State will become the ultimate owner of the electronic intrusion system.

Sec. F-44. Department of Corrections; lease purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Corrections may enter into financing arrangements for the acquisition of computer hardware and software to gain efficiency from improved technology. The financing agreement may not exceed 5 years in duration and \$718,800 in principal costs. The interest rate is estimated at 6.3% with total interest costs over the duration of the financing arrangement estimated at \$121,015. The annual principal and interest costs must be paid from the All Other line category appropriation to the Probation and Parole account. The financing agreement must provide that the State will become the ultimate owner of the computer hardware and software.

Sec. F-45. Intermittent positions. Notwithstanding the Maine Revised Statutes, Title 5, section 1583-A, or any other provision of law, the Department of Corrections may establish, providing funds are available, intermittent positions for the purpose of performing duties for which unbudgeted overtime would otherwise be incurred.

Notwithstanding any other restriction on funds appropriated or allocated to the Department of Corrections, 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 to the Department of Corrections for Personal Services, including funds in any salary account or special account for state employee salary increases, All Other and Capital Expenditures or unallocated funds.

Sec. F-46. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the Department of Corrections is authorized to transfer, by Financial Order in fiscal years 1995-96 and 1996-97, Personal Services, All Other or Capital Expenditures funding between accounts within the same fund for the purpose of accomplishing the initiatives contained in the department's productivity plan approved by the Productivity Realization Task Force and accepted by the Governor. The intent of this section is to enable the Department of Corrections to achieve the savings identified and attain its objectives, while managing operations within resources available throughout the department during this biennium.

Sec. F-47. Salary increases for certain state officials. Notwithstanding any other provision of law, any state official assigned to a higher salary range in the Maine Revised Statutes, Title 2, section 6 as a result of this Act is not eligible for an increase in salary for the remainder of the 1996-97 biennium.

PART G

Sec. G-1. 5 MRSA §1664, as amended by PL 1993, c. 675, Pt. C, §11, is further amended by adding at the end a new paragraph to read:

The Governor, when submitting the budget to the Legislature, shall submit the budget document and the budget bills in a manner that identifies positions authorized by the Legislature for less than 52 weeks in a fiscal year as "Positions - Full-time Equivalent," or FTE, and positions authorized by the Legislature for 52 weeks in a fiscal year as "Positions - Legislative Count" for all funds. The State Budget Officer shall implement and administer procedures to ensure sufficient FTE and appropriation or allocation control for positions authorized by the Legislature for less than 52 weeks in a fiscal year.

Sec. G-2. PL 1995, c. 368, Pt. A, §15, first ¶ is amended to read:

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~~ Commissioner of Administrative and Financial Services or the commissioner's designee may adjust this assessment to any individual account.

PART H

Sec. H-1. 2 MRSA §6, sub-§4, as amended by PL 1995, c. 309, §2 and affected by §29 and amended by c. 368, Pt. UU, §1 and c. 465, Pt. A, §2 and affected by Pt. C, §2, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director, 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;

Executive Director, Board of Environmental Protection;

Director, Office of Consumer Credit Regulation; and

Director, Office of Licensing and Registration.

Sec. H-2. 9-A MRSA §6-103, as amended by PL 1995, c. 309, §6, is further amended to read:

There is created and established the Office of Consumer Credit Regulation, which is a division within the Department of Professional and Financial Regulation. The Director of the Office of Consumer Credit Regulation is the head of the Office of Consumer Credit Regulation. As used in this Act, and except as provided in section 1-301, subsection 2, "administrator" means the Director of the Office of Consumer Credit Regulation. The administrator is appointed by the 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 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 the commissioner and Title 5, section 931, subsection 2 does not apply. ~~During the term of office the administrator may engage in no other business or profession.~~

Sec. H-3. 9-B MRSA §211, sub-§3, as amended by PL 1995, c. 309, §16 and affected by §29, is further amended to read:

3. Powers and duties. ~~The~~ With the approval of the commissioner, the superintendent has authority to shall organize the bureau in such a manner as the superintendent considers necessary to carry out 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~~ The organization must take into account the need for examination and surveillance of individual institutions to 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. H-4. 9-B MRSA §212, as corrected by RR 1993, c. 1, §§25 and 26, is amended to read:

§212. Deputy superintendents and other personnel

1. Deputy superintendents.

A. The superintendent may employ ~~2 or more~~ a deputy ~~superintendents~~ superintendent, subject to ~~applicable Personnel laws and regulations~~ the commissioner's approval and in accordance with the Civil Service Law.

B. The superintendent shall designate ~~one of the~~ the deputy ~~superintendents~~ superintendent to perform the duties of the superintendent whenever the ~~latter~~ superintendent is absent from the State; ~~whenever~~ whenever the deputy superintendent is directed to do so by the superintendent; ~~whenever~~ whenever there is a vacancy in the office of superintendent; or ~~whenever~~ whenever the superintendent is incapacitated by illness. In the event of a vacancy in the office of the superintendent, the superintendent's incapacitating illness or absence from the State at a time when there is no deputy superintendent, the ~~Commissioner of the Department of Professional and Financial Regulation~~ commissioner may designate a special deputy superintendent to perform the duties of the superintendent for a period not to exceed 6 months.

2. Examiners and employees.

A. The superintendent may employ ~~as many examiners, other professional employees and clerical~~ personnel as the business of the bureau may require, subject to the commissioner's approval and in accordance with the Civil Service Law ~~of this State; provided that the~~ of this State; provided that the. The qualifications of ~~such~~ those personnel must reflect the needs and responsibilities relating to the bureau's regulatory functions pursuant to this Title. The superintendent may authorize senior personnel of

the bureau to carry out the superintendent's duties and authority.

B. The superintendent may employ or engage such expert, professional or other assistance as may be necessary to assist the bureau in carrying out its functions.

C. In addition to salaries or wages, all employees of the bureau shall receive their actual expenses incurred in the performance of their official duties.

3. Training of bureau personnel. At the expense of the bureau, the superintendent may train the deputy ~~superintendents~~ superintendent and bureau's employees, or have them trained, in ~~such a manner as the superintendent deems~~ determines desirable; ~~provided that however~~ training programs ~~shall~~ may not place such undue emphasis upon safety and soundness of financial institutions that institutions would be inhibited by the bureau from engaging in unusual activities or loans ~~which that~~ are in the public interest.

Sec. H-5. 9-B MRSA §212-A, as amended by PL 1993, c. 410, Pt. K, §1, is further amended to read:

§212-A. Securities Division

There is created a Securities Division, ~~which constitutes that is~~ a division within the Bureau of Banking and ~~which that~~ has responsibility for the administration and enforcement of the Revised Maine Securities Act, the Maine Commodity Code and the law regulating the sale of business opportunities. The activities of the division are directed by the Securities Administrator, who is appointed by the superintendent, subject to the commissioner's approval and in accordance with the Civil Service Law. The administrator may employ ~~such staff as the Legislature authorizes and all salaries and expenses of the division must be paid out of such amounts as the Legislature allocates those personnel as the business of the division may require, subject to the commissioner's approval and in accordance with the Civil Service Law~~.

Sec. H-6. 10 MRSA §8001, first ¶, as amended by PL 1995, c. 397, §3, is further 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:

Sec. H-7. 10 MRSA §8001, sub-§37, as enacted by PL 1995, c. 389, §3 and c. 397, §11, is repealed.

Sec. H-8. 10 MRSA §8001, sub-§38, as amended by PL 1995, c. 402, Pt. A, §47, is further amended to read:

38. Office of Licensing and Registration. ~~Division Office of Licensing and Enforcement Registration.~~ The ~~Division Office of Licensing and Enforcement~~ Registration 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 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~~ Alcohol and Drug Counselors; ~~and~~
- HH. State Board of Veterinary Medicine;
- II. Propane and Natural Gas Board; and
- JJ. Real Estate Commission.

The ~~Division Office~~ of Licensing and ~~Enforcement~~ Registration also ~~has~~ administers the following ~~regulation~~ regulatory 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. H-9. 10 MRSA §8002, as amended by PL 1993, c. 659, Pt. B, §1, is further amended to read:

§8002. Duties and authority of commissioner

The commissioner is the ~~chief administrative head officer~~ of the department ~~shall be the and is~~ responsible for supervising the administration of the department. ~~The commissioner, who shall be~~ is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over business ~~legislation and economic development matters~~, and to confirmation by the Legislature, ~~and who shall serve during~~. The commissioner serves at the pleasure of the Governor. As chief administrative officer of the department, the commissioner ~~shall have~~ has the following duties and authority to:

1. **Budget.** Prepare the budget for the department;
2. **Personnel.** ~~Appoint~~ Except as otherwise specified, appoint and remove, subject to the Civil

Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at his the commissioner's pleasure; and transfer personnel within the department to insure ensure efficient utilization of department personnel;

3. **Purchases.** Coordinate the purchase and use of all equipment and supplies within the department;

4. **Review.** Review the organization, functions and operation of bureaus, offices, boards and commissions within ~~or~~ and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities; ~~and~~

5. **Liaison.** Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;

6. **Recommendations.** Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;

7. **Delegate authority.** Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority; and

8. **Adequate resources.** Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned.

The commissioner ~~shall~~ may not ~~have the authority to~~ exercise or interfere with the exercise of discretionary regulatory or licensing authority granted by statute to the bureaus, offices, boards or commissions within ~~or~~ and affiliated with the department.

Sec. H-10. 10 MRSA §8003, as amended by PL 1995, c. 397, §12, is further amended to read:

§8003. Departmental organization; duties

1. **Division of Administrative Services.** There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within ~~or~~ and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary

to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Licensing and Registration to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs.

2. Office of Licensing and Registration. There is created a ~~Division~~ an Office of Licensing and ~~Enforcement Registration~~, which constitutes a ~~division~~ an office within the department, to provide assistance to the commissioner and to direct the boards and commissions within the ~~division~~ office, as set forth in section 8001, subsection 38, in complaint procedure and investigation, disciplinary actions and enforcement, examinations and licensing and to perform ~~such~~ those other duties as the commissioner may designate. The commissioner may ~~employ~~ appoint a ~~Regulatory Board Administrator~~ Director of Licensing and Enforcement Registration and ~~such~~ those clerical and technical assistants as are necessary to discharge the duties of the ~~division~~ office and shall outline their duties and fix their compensation, subject to the Civil Service Law. The ~~division~~ office 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~~ office budget that includes a separate account for each board or commission. The ~~division~~ office 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~~ office and allocated to the various boards and commissions according to need-;

D. To adopt rules establishing a uniform complaint procedure; and

E. To perform licensing functions for other state agencies on a fee-for-service basis.

3. License defined. For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

4. Licensing periods; renewal dates. In order that licenses may be processed and issued in a reasonably uniform manner over a fiscal year, the commissioner may establish expiration or renewal dates for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license ~~which~~ that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license ~~shall remain~~ remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew ~~his~~ the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations ~~shall~~ apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. ~~Nothing in this~~ This section may not change the term or fee for one-time licenses, except as specifically ~~provided for~~ stated.

5. Authority of bureaus, offices, boards or commissions. In addition to authority otherwise

conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Banking.

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued ~~shall~~ must be based upon violations of different applicable laws, rules or conditions of licensure or ~~shall~~ must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively and, in total, may not exceed one year. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension ~~shall remain~~ remains part of the licensee's or registrant's record;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission ~~deems~~ determines appropriate. Probation may include ~~such~~ conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and ~~such~~ other conditions as the bureau, office, board or commission ~~deems~~ determines appropriate. Costs incurred in the performance of terms of probation ~~shall be~~ are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation ~~shall be~~ is a ground for disciplinary action against a licensee or registrant.

B. The bureau, office, board or commission may execute a consent agreement ~~which~~ that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Administrative Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms; or

(2) Require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and ~~such~~ other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General ~~deem~~ determine appropriate.

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceed-

ing, unless a consent agreement is first entered into pursuant to this chapter.

The jurisdiction to suspend occupational and professional licenses conferred by this subsection ~~shall be~~ is concurrent with that of the Administrative Court. Civil penalties ~~shall~~ must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter IV, and ~~shall be~~ is subject to judicial review exclusively in the Administrative Court in accordance with Title 5, chapter 375, subchapter VII, substituting the term "Administrative Court" for "Superior Court," notwithstanding any other provision of law.

6. Funding. The commissioner may assess each internal bureau, office, board or commission served by the Division of Administrative Services or by the Division Office of Licensing and Enforcement Registration its reasonable share of an amount sufficient to cover the cost of operating ~~the divisions~~ those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Licensing and Registration.

7. Evidentiary effect of certificate. Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.

8. Display of license. In addition to authority otherwise conferred, bureaus, offices, boards or commissions within or affiliated with the department may specify by rule the conditions under which a licensee's number, name and address are to be displayed to the public.

9. Construction. ~~Nothing in this~~ This section may not be construed to deprive any bureau, office, board or commission within or affiliated with the department of any power set forth in another statute or of its statutory duty and authority to regulate its profession, occupation or industry.

10. National disciplinary record system. Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.

Sec. H-11. 10 MRSA §8003-A, as amended by PL 1991, c. 509, §4, is further amended to read:

§8003-A. Complaint investigation

In aid of their investigative authority, all boards and commissions within or affiliated with the department may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority ~~shall apply~~ applies to any stage of an investigation and ~~shall~~ is not be limited to an adjudicatory proceeding.

Investigative personnel of the Division Office of Licensing and Enforcement Registration, during the normal conduct of their work for regulatory boards within the division office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an order to correct, that process must be established by rule by the respective boards.

Licensing boards and commissions within or affiliated with the department, upon disposition of each complaint and investigation, shall make such disposition available to the public.

~~With respect to any occupation within or affiliated with the department, the department may join or subscribe to any national disciplinary record system and report disciplinary actions taken within this State to any such system.~~

Sec. H-12. 10 MRSA §9003, sub-§10, as amended by PL 1993, c. 642, §10, is repealed and the following enacted in its place:

10. Manufactured housing account. All funds received by the board must be paid to the Treasurer of State and must be credited to the books to the board's manufactured housing account in accordance with Title 32, section 60-C.

Sec. H-13. 10 MRSA §9004, sub-§2, as amended by PL 1993, c. 642, §11, is repealed and the following enacted in its place:

2. Employees. Employees of the board must be employed in accordance with Title 32, section 60-F.

Sec. H-14. 10 MRSA §9062, as amended by PL 1987, c. 395, Pt. A, §39, is further amended to read:

§9062. Duties

The board shall delegate the responsibility for administering the state administrative agency program to the Commissioner of Professional and Financial Regulation. The commissioner may delegate or

contract out the administration of the program at the commissioner's discretion. The board is vested with the authority upon appropriate notice to discontinue participation in the federal enforcement program as a state administrative agency for this State.

Sec. H-15. 24-A MRSA §205, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place:

§205. Bureau organization

With the approval of the Commissioner of Professional and Financial Regulation, the superintendent shall organize the bureau in a manner the superintendent determines necessary for the discharge of the superintendent's duties.

Sec. H-16. 24-A MRSA §206, as corrected by RR 1993, c. 1, §55, is amended to read:

§206. Deputy superintendents

1. The superintendent, with the approval of the Commissioner of Professional and Financial Regulation, may employ, subject to the Civil Service Law, ~~a first 2 deputy superintendent and may employ one or more additional deputies superintendents.~~ Where authorized by another section of this Title, the superintendent may also appoint such special deputies as regulatory responsibilities may necessitate.

2. The deputies shall perform such duties and exercise such powers of the superintendent as the superintendent may from time to time authorize. ~~The first deputy shall be acting superintendent during a vacancy in the office of Superintendent of Insurance or during the incapacity of the superintendent. The superintendent shall designate one of the deputy superintendents to perform the duties of the superintendent whenever the superintendent is absent from the State; the deputy superintendent is directed to do so by the superintendent; there is a vacancy in the office of superintendent; or the superintendent is incapacitated by illness.~~

Sec. H-17. 24-A MRSA §207, as amended by PL 1985, c. 785, Pt. B, §107, is repealed and the following enacted in its place:

§207. Staff

The superintendent may employ personnel as the business of the bureau may require, subject to the Commissioner of Professional and Financial Regulation's approval and in accordance with the Civil Service Law. The qualifications of those personnel must reflect the needs and responsibilities relating to the bureau's regulatory functions pursuant to this Title. The superintendent may authorize senior personnel of

the bureau to carry out the superintendent's duties and authority.

Sec. H-18. 32 MRSA §60-B to 60-I, as enacted by PL 1995, c. 397, §16, are amended to read:

§60-B. Compensation

Members of a board or commission listed in Title 10, section 8001, subsection 38 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 listed in Title 10, section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in Title 10, section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board ~~or~~ commission or regulatory function within the budget of the ~~Division Office~~ Office of Licensing and Enforcement Registration.

Money received by a board or commission listed in Title 10, section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in Title 10, section 8001, subsection 38 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 listed in Title 10, section 8001, subsection 38 may enter into contracts to carry out its statutory responsibilities. The Department of Professional and Financial Regulation, ~~Division Office~~ Office of Licensing and Enforcement Registration may enter into contracts in its own right, or on behalf of boards and commissions and to perform regulatory functions, 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 listed in Title 10, section 8001, subsection 38 must be

prepared and administered as provided in Title 10, section 8003.

§60-F. Employees

The Commissioner of Professional and Financial Regulation ~~shall appoint~~ may employ, subject to the Civil Service Law, ~~employees personnel~~ as may be necessary to carry out the duties and functions of the various boards and commissions and to perform the regulatory functions listed in Title 10, section 8001, subsection 38. A person so employed must be located in the department, allocated to the ~~Division Office~~ of Licensing and ~~Enforcement Registration~~ and under the administrative and supervisory direction of the commissioner.

§60-G. Disciplinary actions

1. Filing of complaints. A board or commission listed in Title 10, section 8001, subsection 38 shall file complaints received from a person or initiated by a board or commission with the ~~Division Office~~ of Licensing and ~~Enforcement Registration~~.

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~~ Office of Licensing and Registration's complaint unit. 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 listed in Title 10, section 8001, subsection 38 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 or commission, which may not be less than 30 days.

§60-I. Citations and fines

Any board or commission listed in Title 10, section 8001, subsection 38 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 ~~employees of the Division Office~~ of Licensing and ~~Enforcement Registration~~ 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. H-19. 32 MRSA §62, sub-§1-A is enacted to read:

1-A. Administrator-in-training. "Administrator-in-training" means an individual who meets the qualifications set forth in rules by the board, is engaged in a training program defined in rules and approved by the board and is under the supervision of a preceptor also approved by the board.

Sec. H-20. 32 MRSA §62, sub-§4 is enacted to read:

4. Preceptor. "Preceptor" means an individual who is licensed by the board and who meets qualifications set forth in rules by the board to supervise the program of one or more administrators-in-training.

Sec. H-21. 32 MRSA §63-B, sub-§5, as amended by PL 1993, c. 600, Pt. A, §29, is further amended to read:

5. Application, examination and license fees. An application and an examination fee may be established by the board in amounts that are reasonable and necessary for the board's respective purposes. The board shall establish ~~a an initial license fee, temporary license fee and an annual license renewal fee for nursing home administrators, which may not exceed \$150.~~ The board shall establish an initial license fee and an annual license renewal fee for administrators-in-training, neither of which may exceed \$125. Temporary license fees may not exceed \$125. The board may, by rule, provide for the waiver of part of the fee for an initial license if it is issued for less than 1/2 year.

Sec. H-22. 32 MRSA §553-A, sub-§3, as enacted by PL 1991, c. 392, §10, is amended to read:

3. Fees. Fees are established as follows:

A. For the application, \$50 an amount set by the board that is reasonable and necessary for its purpose;

B. For the examination, \$50 an amount set by the board that is reasonable and necessary for its purpose;

C. For the initial license, an amount set by the board but no more than \$225; and

D. For the license renewal, biennially, an amount set by the board but no more than \$225.

All fees received by the board must be paid to the Treasurer of State and used to carry out this chapter. 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 years.

Sec. H-23. 32 MRSA §558, as amended by PL 1993, c. 600, Pt. A, §52, is further amended to read:

§558. Fees

The board shall establish by rule an application fee ~~not to exceed \$25~~ that is reasonable and necessary for its purpose and a biennial certification renewal fee not to exceed \$50.

Sec. H-24. 32 MRSA §1101, sub-§1, as amended by PL 1989, c. 450, §10, is further amended to read:

1. Apprentice electrician. "Apprentice electrician" means a person who is as defined in Title 26, chapter 11 and who is engaged in ~~such~~ a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician. The biennial renewal fee for an apprentice electrician license ~~shall be set by the board in an amount not to exceed \$20~~.

Sec. H-25. 32 MRSA §1101, sub-§3, as amended by PL 1995, c. 325, §2, is further amended to read:

3. Helper electrician. "Helper electrician" means a person 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 is set by the board in an amount not to exceed \$20.

Sec. H-26. 32 MRSA §1658-A, sub-§1, as amended by PL 1991, c. 509, §6, is further amended to read:

1. License for person. No person may engage in the sale of or practice of fitting and dealing in hearing aids or display a sign or in any other way advertise as or profess to be a person who practices the fitting, dealing and sale of hearing aids, unless that person holds a valid license issued by the board as provided in section 1658-I. The board shall issue a license to any person who applies for the license and who is qualified for the license pursuant to section

1658-I, upon payment of a fee ~~of~~ set by the board in an amount not to exceed \$185. Licenses expire annually on January 31st or on ~~such other~~ another date as the Commissioner of Professional and Financial Regulation determines. The license required by this chapter must be conspicuously posted in the licensee's office or place of business. The board shall, for cost, issue duplicate licenses to license holders operating more than one office. A license issued under this chapter confers on the holder the right to select, fit and sell hearing aids.

Sec. H-27. 32 MRSA §1658-A, sub-§2, as corrected by RR 1991, c. 1, §45, is amended to read:

2. License for business organization. Any corporation, partnership, trust, association or other like organization engaged in the business of selling or offering for sale hearing aids at retail in the State shall apply to the board for a license to engage in that business. No business entity may so engage in the business of selling or offering for sale hearing aids without a license to do so. The board shall issue a license upon payment by the business entity of a fee ~~of~~ set by the board in an amount not to exceed \$185 and upon filing of a sworn statement from a person with authority from the business entity. That sworn statement must list the names and addresses of all hearing aid dealers and fitters directly or indirectly employed by the entity and must certify that the entity employs only hearing aid dealers and fitters who are duly licensed by the State. Licenses expire annually on January 31st or on ~~such other~~ another date as the Commissioner of Professional and Financial Regulation determines. Licenses may be renewed annually by each ~~such~~ business engaged in the fitting and sale of hearing aids by filing an application for a renewal of its license accompanied by a fee ~~of~~ set by the board in an amount not to exceed \$185. 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 application for renewal submitted more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter. The commissioner may establish dates for the renewal of licenses.

The license required by this chapter must be conspicuously posted in the licensee's office or place of business.

Sec. H-28. 32 MRSA §1658-J, as amended by PL 1983, c. 413, §78, is further amended to read:

§1658-J. Temporary trainee permit

An applicant who fulfills the requirements as set forth in section 1658-I, subsection 1, paragraphs A to D, may obtain a trainee permit upon application to the board, accompanied by a fee ~~of~~ set by the board in an amount not to exceed \$50 and the signature of the

licensed hearing aid dealer and fitter who is responsible for the direct supervision of the trainee.

~~No~~ A person holding a trainee permit may not engage in the practice of dealing in or fitting of hearing aids, except while under supervision by a licensed hearing aid dealer and fitter.

A person who holds a temporary trainee permit ~~shall~~ must be notified and shall take the next scheduled licensing examination. After successfully passing the examination, ~~he shall~~ the person must be issued a license upon the payment of the annual license fee required under section 1658-M.

If ~~such~~ the holder of a trainee permit fails the examination, ~~he that person~~ that person may apply for and be issued a new trainee permit upon payment of an additional fee ~~of set by the board in an amount not to exceed \$50. Not more than 3 trainee permits may be issued to any applicant.~~ set by the board in an amount not to exceed \$50. An applicant may not be issued more than 3 trainee permits.

Sec. H-29. 32 MRSA §1658-M, as amended by PL 1991, c. 509, §8, is further amended to read:

§1658-M. Annual renewal of license; fees; effect of failure to renew

Licenses issued pursuant to section 1658-A, subsection 1, may be renewed annually upon application by the licensee, accompanied by a fee ~~of set by the board in an amount not to exceed \$185.~~ set by the board in an amount not to exceed \$185. The board shall notify every ~~such~~ each licensee of the date of expiration of the license and the amount of the fee required for renewal for a 12-month period. The notice must be mailed to the licensee's last known address at least 30 days in advance of the expiration of the license. The 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~~ 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 board may, giving consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Notwithstanding this section, ~~no~~ an annual renewal certificate may not be issued by the board until ~~such time as~~ the applicant submits proof satisfactory to the board that during the year preceding the applicant's application for renewal, the applicant has participated in ~~not fewer than~~ at least 8 clock hours for courses of continuing education in fitting and dealing in hearing aids offered by an institution approved by the board.

Sec. H-30. 32 MRSA §2285, sub-§1, as amended by PL 1991, c. 509, §18, is further amended to read:

1. Amount. The fees are in the following amounts:

A. For an initial application, ~~\$100~~ an amount set by the board that is reasonable and necessary for its purpose;

B. For biennial renewal of a license, an amount set by the board not to exceed \$120; and

C. For a temporary license, an amount set by the board not to exceed \$50.

Sec. H-31. 32 MRSA §3301, sub-§2-A, as enacted by PL 1983, c. 468, §12, is amended to read:

2-A. Journeyman-in-training license. A "journeyman-in-training license" means that license issued to a person who is in the process of accumulating experience in order to qualify for a journeyman plumber's license, pursuant to section 3501, subsection 2, paragraph B, who has met the education requirements set forth in that paragraph and has achieved a passing grade, as determined by the board, on the journeyman's examination. A licensed journeyman-in-training may assist in making plumbing installations under the direct supervision of a journeyman plumber or a master plumber, but may not act as or represent ~~himself as that the person is~~ himself as a journeyman plumber, as defined in subsection 3. A journeyman-in-training license ~~shall be issued is valid~~ shall be issued is valid for a single nonrenewable period of 4 years, and ~~such a license~~ such a license may be issued only once to any individual. The fee for a journeyman-in-training license ~~shall be is set by the board and may not exceed \$8.~~ shall be is set by the board and may not exceed \$8.

Sec. H-32. 32 MRSA §3835, first ¶, as amended by PL 1985, c. 481, Pt. A, §62, is further amended to read:

Licenses issued under this chapter ~~shall~~ expire biennially on ~~such a date as may be~~ a date as may be established by the Commissioner of Professional and Financial Regulation, if not renewed. ~~Every~~ A person licensed under this chapter shall submit, on or before the biennial expiration date, ~~submit~~ submit an application for license renewal together with the biennial renewal fee. ~~The board shall establish these fees as necessary in rules to cover the cost of operation. The board shall set the fees in an amount not to exceed \$400 for psychologists and psychological examiners and \$200 for temporary licensure.~~ The board shall set the fees in an amount not to exceed \$400 for psychologists and psychological examiners and \$200 for temporary licensure.

Sec. H-33. 32 MRSA §4859, sub-§4, as enacted by PL 1975, c. 477, §4, is amended to read:

4. Establish a schedule of fees. Establish a schedule of fees for the licensing and registration of veterinarians. The board shall set the fees in an amount not to exceed \$150 for veterinarians and \$75 for veterinary technicians.

Sec. H-34. 32 MRSA §4912, as amended by PL 1993, c. 404, Pt. A, §16, is further amended to read:

§4912. Fees

An application fee and an examination fee may be established by the board in amounts that are reasonable and necessary for their respective purposes.

The initial and renewal fees for certification as a geologist or soil scientist are set by the board in an amount not to exceed \$65 annually.

Sec. H-35. 32 MRSA §5013, as amended by PL 1991, c. 283, §4, is further amended to read:

§5013. Applications; fees

Applications for licensure must be made on forms prescribed and furnished by the board, and contain statements made under oath as to residence, the applicant's education, a detailed summary of technical experience, and contain the names of not less than 5 references, 3 or more of whom must be foresters having personal or professional knowledge of forestry experience. Notwithstanding any other provision of law, any communications solicited or received by the board as references may be kept confidential by the board and any discussion of these references may be conducted in executive session. An application fee may be established by the board in an amount ~~which that~~ that is reasonable and necessary for its purpose. The fee for a license as a licensed professional forester is fixed by the board, ~~but may not be less than \$40 nor more than in an amount not to exceed \$55 annually and must be paid before the issuance of the license. Should the applicant fail to remit the licensure fee within 30 days after being notified by certified mail that the application has been accepted, the applicant shall forfeit~~ forfeits the right to have a license so issued and the applicant may be required to again submit an original application.

Sec. H-36. 32 MRSA §5015, as amended by PL 1991, c. 283, §5, is further amended to read:

§5015. Expiration and renewal of license

~~The Division of Licensing and Enforcement~~ Office of Licensing and Registration of the Department of Professional and Financial Regulation shall compile and maintain a complete and up-to-date list of all licensed foresters in the State. The list ~~shall~~ must be made available to any person upon request at cost.

Licenses expire on December 31st, or as designated by the Commissioner of Professional and Financial Regulation, following their issuance or renewal and become invalid on that date unless renewed. It is the duty of the ~~Division of Licensing and Enforcement~~ Office of Licensing and Registration to notify, at the last known address, every person licensed under this chapter of the date of the expiration of the license and the amount of the fee that is required for its renewal, that notice to be mailed at least one month in advance of the date of the expiration of that license. The board shall fix the renewal fee for licenses, ~~which fee may not be less than \$40 nor more than in an amount not to exceed \$55 annually.~~ Renewal of licenses may be effected at any time during the month of renewal of the year in which the license is due for renewal by payment of the renewal fee fixed by the board. A license 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 is subject to all requirements governing new applicants under this chapter. The board shall make an exception to the foregoing renewal provision in the case of a person who is in the Armed Services of the United States.

The board may require applicants for license renewal to present evidence of satisfactory completion of continuing professional education in accordance with the board's rules.

Sec. H-37. 32 MRSA §6028, first ¶, as amended by PL 1991, c. 509, §27, is further amended to read:

An application fee and an examination fee may be established by the board in amounts that are reasonable and necessary for their respective purposes. ~~Every A~~ A person to whom an initial license is issued pursuant to this chapter shall pay a license fee ~~of~~ set by the board in an amount not to exceed \$90. The fee for a temporary license is set by the board and may not exceed \$90. The fee for biennial renewal of a license is set by the board and may not exceed \$140. The board may, by rule, provide for the waiver of all or part of the fee for an initial license, if it is issued less than 120 days before the date on which it will expire. When the unexpired term of an initial license of an applicant is or will be more than one year at time of licensure, the board may, by rule, require the applicants to pay an additional fee not to exceed 1/2 the biennial renewal fee.

Sec. H-38. 32 MRSA §6215, as amended by PL 1995, c. 394, §20, is further amended to read:

§6215. Application; membership fees

Application for registration as a registered alcohol and drug counselor or licensure as a licensed alcohol and drug 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 set by the board in an amount not to exceed~~ \$75 for registration and \$150 for licensure as an alcohol and drug counselor. The payment of fees is suspended during the term of inactive status.

Sec. H-39. 32 MRSA §9605, sub-§§1 and 2, as amended by PL 1991, c. 509, §29, are further amended to read:

1. Commercial driver education school license. Each application for a commercial driver education school must be accompanied by ~~an a~~ a nonrefundable application fee established by the board in an amount that is reasonable and necessary for its purposes, ~~which may not be refunded.~~ If the application is approved by the board, the applicant, upon payment of a fee ~~of set by the board in an amount not to exceed~~ \$250, must be granted a license, which is valid during the calendar year of its issue unless sooner revoked as provided. The renewal fee is set by the board and may not exceed \$250.

2. Instructor license. Each application for an instructor's license must be accompanied by ~~an a~~ a nonrefundable application fee established by the board in an amount that is reasonable and necessary for its purpose, ~~which may not be refunded.~~ If the application is approved by the board, the applicant, upon payment of a fee ~~of set by the board in an amount not to exceed~~ \$125, must be granted a license, which is valid during the calendar year of its issue unless sooner revoked. The renewal fee is set by the board and may not exceed \$125.

Sec. H-40. 32 MRSA §9710, sub-§1, as repealed and replaced by PL 1991, c. 509, §30, is amended to read:

1. Amount. Application and examination fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. Original and renewal license fees for respiratory care ~~practitioner~~ practitioner licenses are set by the board and may not exceed \$135 biennially. Temporary license fees are set by the board and may not exceed \$70. Trainee registration fees are set by the board and may not exceed \$50.

Sec. H-41. 32 MRSA §9911, sub-§1, as amended by PL 1991, c. 509, §34, is further amended to read:

1. Amount. Application fees may be established by the board in amounts that are reasonable and necessary. Licensing fees may not exceed the following amounts:

A. For an original dietitian's or dietetic technician's license, \$160; ~~or~~

B. For a renewal dietitian's or dietetic technician's license, \$160; or

C. For a temporary dietitian's or dietetic technician's license, \$50.

Sec. H-42. 32 MRSA §12214, sub-§9, as enacted by PL 1987, c. 489, §2, is amended to read:

9. Fees. The board may establish application and examination fees in amounts ~~which that~~ that are reasonable and necessary for their respective purposes. All ~~those~~ fees ~~shall must~~ must accompany the applications. Application fees are nonrefundable. Examination fees ~~shall may~~ may not be returned to an applicant ~~should be the~~ the applicant fail to pass an examination. Fees for permits may not exceed the following amounts:

A. For an initial issuance or renewal of a certified public accountant or public accountant permit, \$100;

B. For an initial issuance or renewal of a firm permit, \$100; or

C. For an initial issuance or renewal of a firm branch office permit, \$50.

Sec. H-43. 32 MRSA §13069, sub-§3, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed and the following enacted in its place:

3. Employees. Employees of the commission must be employed in accordance with section 60-F.

Sec. H-44. 32 MRSA §13069, sub-§4, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. H-45. 32 MRSA §13069, sub-§4-A is enacted to read:

4-A. Real estate account. All funds received by the commission must be paid to the Treasurer of State and must be credited to the commission's account in accordance with section 60-C.

Sec. H-46. 32 MRSA §13978, sub-§5, as enacted by PL 1989, c. 806, §3, is amended to read:

5. Fee. Pay an application fee in an amount established by the board and a license fee not to exceed \$200; and

Sec. H-47. 32 MRSA §13980, sub-§1, as corrected by RR 1991, c. 2, §123, is amended to read:

1. Amount. Application and examination fees may be established by the board in amounts ~~which that~~ are reasonable and necessary for their respective purposes. License fees may not exceed the following amounts:

A. For original and renewal fees for licensed appraisers, \$250 biennially; ~~and~~

B. For original and renewal fees for certified appraisers, \$300 biennially; ~~and~~

C. For temporary licensure, \$200.

Sec. H-48. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Division of Licensing and Enforcement" appear or reference is made to those words, they are amended to read and mean "Office of Licensing and Registration" and the Revisor of Statutes shall implement these revisions when updating, publishing or republishing the statutes.

PART I

Sec. I-1. PL 1995, c. 368, Pt. A, §3, 3rd ¶ is amended to read:

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. In the 1996-1997 biennium only, accrued salary savings generated from vacant positions within an appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies. 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.

Sec. I-2. Calculation and transfer. The State Budget Officer shall calculate the amount in section 4 of this Part that applies against each General Fund account for all departments and agencies based on the proportionate share of salaries and wages in the Personal Services appropriations in the affected

accounts and on the historical attrition rate for the affected departments and agencies, except for General Fund accounts in the following departments: Department of Corrections, Department of Inland Fisheries and Wildlife and Department Mental Health and Mental Retardation. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall distribute the calculated amounts as appropriated adjustments.

Sec. I-3. Retirement unfunded liability and retiree health insurance. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount of the Unfunded Actuarial Liability and Retiree Health Insurance portions of retirement in the Personal Services savings identified in section 2 of this Part, and shall cause the calculated amounts to be transferred to the Retirement Unfunded Liability account established in this Act and to the Retiree Health Insurance Fund account in the Department of Administrative and Financial Services, respectively.

Sec. I-4. 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 - Salary Savings		
Personal Services	(\$1,097,007)	(\$1,672,390)
Provides for the deappropriation of funds from salary savings generated by vacancies that occur from projected turnover.		

Sec. I-5. Adjustment in subsequent fiscal years. Beginning with the biennial budget for fiscal years 1997-98 and 1998-99, recommendations made by the Governor to the Legislature for Personal Services appropriations and allocations in all accounts must be reduced by an amount equivalent to .8% of projected salaries and wages.

Sec. I-6. Carrying balance. Any balance remaining on June 30, 1995 in the General Fund Salary Plan program in the Department of Administrative and Financial Services may not lapse but must be carried forward to June 30, 1997 to carry out the purposes of this Part and the purposes of Public Law 1995, chapter 395, Part F, section 2.

Sec. I-7. Retroactivity. Section 6 of this Part applies retroactively to June 30, 1995.

PART J

Sec. J-1. Retiree health insurance; calculation and transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount of the Retiree Health Insurance portion of retirement in the Personal Services savings identified under the provisions of Public Law 1995, chapter 99, Part D, and shall cause the calculated amount to be transferred from all affected accounts, regardless of fund, to the Retiree Health Insurance Fund account in the Department of Administrative and Financial Services in fiscal year 1995-96 and fiscal year 1996-97.

Sec. J-2. Account established. There is established in the Department of Administrative and Financial Services the Retirement Unfunded Liability account, Other Special Revenue Fund to which amounts identified in section 3 of this Part must be transferred during fiscal year 1995-96 and fiscal year 1996-97.

Sec. J-3. Retirement unfunded liability; calculation and transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount of the Unfunded Actuarial Liability portion of the retirement in the Personal Services savings identified under the provisions of Public Law 1995, chapter 99, Part D, and shall cause the calculated amount to be transferred from all affected accounts, regardless of fund, to the Retirement Unfunded Liability account in the Department of Administrative and Financial Services in fiscal year 1995-96 and fiscal year 1996-97.

Sec. J-4. Allotment of funds. The allotment of available funds in the Retirement Unfunded Liability account for the purpose of making payments to the Maine State Retirement System must be implemented by financial order 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.

PART K

Sec. K-1. 38 MRSA c. 30 is enacted to read:

CHAPTER 30

ACE SERVICE CENTER

§2451. ACE Service Center

1. Establishment. The ACE Service Center, referred to in this section as "the center," is established within the department to provide certain administrative services to the Department of Agriculture, Food and Rural Resources; the Department of Conservation; and the Department of Environmental Protection,

which are referred to in this section as "the departments." Administrative services include, but are not limited to, support services in financial and human resources, inventory management, courier services and such other functions as may be determined jointly by the commissioners of the departments. The center's purpose is to provide administrative services in an efficient and cost-effective manner to the departments. The center is under the joint authority and direction of the commissioners of the departments or their designees. The commissioners of the departments by unanimous decision shall employ a director of the center subject to the Civil Service Law.

2. Transfer of property. The commissioners of the departments shall approve the transfer of such property and equipment as needed for the operation of the center.

Sec. K-2. Effective date. Section 1 of this Part takes effect upon enactment for the purposes of initiating necessary implementation steps, provided that the effective date of all appropriations and allocations is January 1, 1996.

Sec. K-3. Fiscal agent for the Department of Defense and Veterans' Services. The Department of Public Safety shall serve as the fiscal agent for the Department of Defense and Veterans' Services, to include such functions as processing payment vouchers and contract documents, and handling personnel and payroll matters, financial management services and other related required functions as agreed upon by the 2 departments.

Sec. K-4. Fiscal agent for the Governor's Office, Blaine House, State Planning Office and the Department of Economic and Community Development. The Department of Administrative and Financial Services shall serve as the fiscal agent for the Governor's Office, Blaine House, State Planning Office and the Department of Economic and Community Development, to include such functions as processing payment vouchers and contract documents, and handling personnel and payroll matters, financial management services and other related required functions as agreed upon by the 5 entities.

PART L

Sec. L-1. 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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PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF

**Administrative Services -
Professional and Financial
Regulation**

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(\$4,397)	\$2,467
All Other	(16,015)	(26,529)
TOTAL	(20,412)	(24,062)

Provides for the deallocation of funds from the elimination of one Information Systems Support Technician position and one Data Control Specialist position; the transfer of one Managing Examiner position from the Bureau of Insurance and from not seeking the reclassification of one Senior Administrative Secretary position to one Administrative Assistant position approved in Public Law 1995, chapter 368, Part AA.

Banking - Bureau of

Positions - Other Count	(-6.0)	(-7.0)
Personal Services	(183,816)	(246,687)
All Other	(14,750)	(23,300)
TOTAL	(198,566)	(269,987)

Provides for the deallocation of funds through the elimination of one Principal Bank Examiner position, 3 Senior Bank Examiner positions, one Bank Examiner position and one Clerk Typist III position. Elimination of one Planning and Research Assistant position in fiscal year 1996-97 only and the class exchange of one Senior Consumer Credit Examiner position for one Staff Attorney position.

Dental Examiners - Board of

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	2,084	(10,819)

Provides for the deallocation of funds to

eliminate one part-time Clerk Typist II position.

Insurance - Bureau of

Positions - Other Count	(-5.0)	(-5.0)
Personal Services	(135,075)	(230,957)
All Other	(25,306)	(27,481)
TOTAL	(160,381)	(258,438)

Provides for the deallocation of funds from the downgrade of one Director, Insurance Consumer/Licensing position, the elimination of one Licensing Division Supervisor position, one Market Conduct Examiner position, 2 Clerk Typist II positions and the transfer of one Managing Examiner position to the Bureau of Administrative Services, the reclassification of 2 Clerk Stenographer III positions to Assistant Analyst positions and by not seeking the reclassifications approved in Public Law 1995, chapter 368, Part AA and the downgrade of one Consumer Assistant Supervisor position to one Insurance Complaint Supervisor position.

Licensing and Enforcement

Positions - Other Count	(-3.0)	(-4.0)
Personal Services	(30,621)	(92,579)
All Other	(25,295)	(28,655)
TOTAL	(55,916)	(121,234)

Provides for the deallocation of funds from the elimination of 2 Clerk Typist II positions and one Compliance Case Coordinator position, the establishment of one Director position, the reclassification of one Account Clerk I position to one Account Clerk II position, the downgrade of one Regulatory Board Administrator position and the elimination of one Clerk Typist III position

and by not seeking the reclassifications approved in Public Law 1995, chapter 368, Part AA. In addition, 2 part-time Clerk Typist II positions will be eliminated in fiscal year 1996-97.

Real Estate Commission

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(23,191)	(45,279)
All Other	(13,339)	(14,164)
TOTAL	(36,530)	(59,443)

Provides for the deallocation of funds from the elimination of one Clerk Typist III position and by not seeking reclassifications approved in Public Law 1995, chapter 368, Part AA.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

TOTAL

(469,721) (743,983)

SECTION L-1**TOTAL ALLOCATIONS**

(\$469,721) (\$743,983)

PART M

Sec. M-1. State employee participation in Productivity Realization Task Force study. In accordance with the Maine Revised Statutes, Title 5, chapter 2, a state employee may not be impeded or prevented from contributing to or participating in the study conducted by the Productivity Realization Task Force established in Public Law 1995, chapter 99. An employee of this State, as that term is defined in Title 5, section 20, subsection 1, or appointed executive employee, as that term is defined in Title 5, section 19, subsection 1, paragraph A, may not issue or promulgate any policy that contravenes this section.

PART N

Sec. N-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96 1996-97

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Office of Agricultural, Natural and Rural Resources

Positions - Legislative Count (1.0) (1.0)

Personal Services	\$27,844	\$57,028
All Other	14,257	101,326
TOTAL	42,101	158,354

Provides for the appropriation of funds through the transfer of one Soil Scientist position and associated All Other funds from the State Soil and Water Conservation Commission as part of a restructuring plan.

Soil and Water Conservation Commission

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(27,844)	(57,028)
All Other	(14,257)	(101,326)
TOTAL	(42,101)	(158,354)

Provides for the deappropriation of funds through the transfer of one Soil Scientist position and associated All Other funds to the Office of Agricultural, Natural and Rural Resources as part of a restructuring plan.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

TOTAL

\$-0- \$-0-

PART O

Sec. O-1. 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

Forest Management, Utilization and Marketing

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	\$19,383	\$39,832
All Other	2,118	2,118
TOTAL	21,501	41,950

Appropriates funds to restore one Forester I position.

PART P

Sec. P-1. Mental health facilities. In making the recommendations required by Public Law 1995, chapter 99, the Productivity Realization Task Force may not include among its recommendations the closure of any mental health facility.

PART Q

Sec. Q-1. Governor Baxter School for the Deaf. In making the recommendations required by Public Law 1995, chapter 99, the Productivity Realization Task Force or the Governor may not include among recommendations any additional budget reductions or the elimination of any program in the Governor Baxter School for the Deaf until March 1, 1996.

PART R

Sec. R-1. 5 MRSA §17858-B is enacted to read:

§17858-B. Retirement; creditable service

1. Retirement incentive. Any state employee, as defined in section 17001, subsection 40, except employees of the Maine Technical College System, who, by April 1, 1996, has reached normal retirement age and has 10 or more years of creditable service and who gives notice to the Maine State Retirement System no later than February 1, 1996 and who retires effective no later than April 1, 1996 is entitled to receive, at the employee's option, either 3 months' base salary paid as a lump sum to be paid on July 1, 1996 or the equivalent amount in monthly cash payments toward retiree dependent medical insurance equal to the current percentage contribution rate for dependent coverage for state employees.

Payment of the retirement incentive under this subsection must be made by the employing agencies and may not be made from the funds of the Maine State Retirement System.

Payment of the retirement incentive under this subsection may not be used in the calculation of the employee's average final compensation or creditable service.

2. Vacant position. The department or agency from which any state employee retires under subsection 1 either may not fill the resulting vacant position or, if that position is filled, shall maintain a vacant position elsewhere within the department or agency until the State's costs associated with the retirement have been recovered. Alternatively, the Governor may recover these costs by maintaining an offsetting vacancy in another department or agency or by utilizing other salary savings.

3. Payment of fixed costs. With respect to each employee who retires under subsection 1, the State shall pay the amount of the Maine State Retirement System's unfunded liability payment, the Maine State Retirement System's administrative cost payment and the retiree health care payment associated with the employee.

4. Policies and procedures. The Executive Director of the Maine State Retirement System shall establish policies and procedures for the implementation of this section, including notice and payment requirements, that ensure that no unfunded liability results to the Maine State Retirement System.

Sec. R-2. Application of savings. Any savings realized as a result of this Part must be credited towards the \$45,346,780 in savings that the Productivity Realization Task Force is directed to identify pursuant to Public Law 1995, chapter 99, Part D.

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

Effective November 30, 1995.

CHAPTER 503

H.P. 1151 - L.D. 1590

An Act to Correct an Error in the Hospital Assessment Program

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

Whereas, unless this legislation is enacted as an emergency measure, the State will be unable to determine gross patient service revenue limits at the levels budgeted for fiscal year 1995-96, which, in turn, results in the inability to fully collect the hospital assessment tax pursuant to the Maine Revised Statutes, Title 36, section 2801-A during that time period; and

Whereas, because of this inability, the State stands to lose a substantial amount of revenue per month to the State Medicaid Special Revenue account; 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 1995, c. 368, Pt. W, §10, sub-§3 is repealed.

Sec. 2. PL 1995, c. 368, Pt. RR, §5 is repealed.

Sec. 3. Joint authority to modify rules concerning gross patient service revenue limits. The Department of Human Services and the Maine Health Care Finance Commission have joint authority to modify rules concerning gross patient service revenue limits of the Maine Health Care Finance Commission in effect on June 30, 1995, as modified by all additional or amended rules adopted by the Maine Health Care Finance Commission. After January 1, 1996, the Department of Human Services has sole authority to modify rules of the Maine Health Care Finance Commission in effect on December 31, 1995 concerning gross patient service revenue limits. The Department of Human Services may draft emergency rules that apply retroactively to July 1, 1995 concerning all aspects of gross patient service revenue limits for assessment purposes.

4. Retroactivity. This Act applies retroactively to July 1, 1995.

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

Effective December 1, 1995.

CHAPTER 504

H.P. 1148 - L.D. 1587

An Act to Implement the Productivity Recommendations of the Department of Transportation and Make Adjustments to Highway Fund Allocations for Fiscal Years 1995-96 and 1996-97

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

PART A

Sec. A-1. Allocation. The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, to carry out the purposes of this Part.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Salary Plan

Personal Services	(1995-96)	(1996-97)
	(\$3,376,543)	

Provides for the deallocation of funds from the excess Personal Services that were originally required by Public Law 1993, chapter 414, Part D, section 6.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

	(1995-96)	(1996-97)
	(3,376,543)	

TRANSPORTATION, DEPARTMENT OF

Administration and Planning

Positions - Legislative Count	(-7.0)	(-7.0)
Positions - Other Count	(-1.5)	(-1.5)
Personal Services	(269,158)	(275,944)

Provides for the deallocation of funds from the elimination of the following: Three seasonal Highway Laborer positions; one Engineering Technician II position; one Management Analyst I position; one Planning and Research Associate I position; one Public Relations Specialist position; one Transportation Planning Analyst position; one Transportation Planning Specialist position; and one Director of Special Projects position. All of the above positions are split-funded, 84% Highway Fund and 16% Federal Expenditure Fund.

Administration and Planning

Personal Services	(1995-96)	(1996-97)
	(75,057)	(78,059)

Provides for the deallocation of funds from the determination that payments to the Workers'

Compensation Management Fund are eligible as federal expenditures.			position; 2 Field Inspector positions; 10 Highway Laborer positions; 2 Right-of-way Agent I positions; one Right-of-way Appraiser I position; 2 Right-of-way Appraiser I positions; one Right-of-way Appraiser III position; one Secretary position; one Senior Programmer Analyst position; and one Staff Development Specialist position.		
Bond Interest - Highway					
All Other	142,000	284,000			
Provides for the allocation of funds necessary for interest for a \$5,000,000 bond sale on January 1, 1996.					
Bond Retirement - Highway					
All Other		500,000	Highway and Bridge Improvement		
Provides for the allocation of funds necessary for bond retirement on a \$5,000,000 bond sale during fiscal year 1995-96.			Capital Expenditures	1,920,927	
			Provides for the allocation of funds saved by the elimination of positions within the Department of Transportation for the Capital Improvement Program.		
Bridge Maintenance			Highway and Bridge Improvement		
Positions - Legislative Count	(-1.0)	(-1.0)	Personal Services	(560,009)	(582,409)
Personal Services	(26,879)	(28,186)	Provides for the deallocation of funds resulting from the determination that payments to the Workers' Compensation Management Fund are eligible as federal expenditures.		
Provides for the deallocation of funds from the elimination of one Engineering Technician II position.			Highway and Bridge Improvement		
Highway and Bridge Improvement			Personal Services	(2,500,000)	
Positions - Legislative Count	(-34.0)	(-34.0)	Provides for the deallocation of excess Personal Services funding, which was carried forward from fiscal year 1994-95.		
Positions - Other Count	(-5.5)	(-5.5)	Highway and Bridge Improvement		
Personal Services	(783,681)	(806,706)	Capital Expenditures	2,500,000	
Provides for the deallocation of funds from the elimination of the following: Four Assistant Engineer positions; 6 Civil Engineer II positions; one Civil Engineer III position; one Clerk Stenographer II position; one Clerk Typist II position; one Engineering Aide II position; one Engineering Aide I position; 2 Engineering Technician I positions; 2 Engineering Technician II positions; one Engineering Technician III position; 3 Engineering Technician IV positions; one Engineering Technician V			Provides for the allocation of funds to support the Capital Improvement Program.		

Highway and Bridge Improvement

All Other	4,000,000
Capital Expenditures	30,000,000

TOTAL	34,000,000
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Provides for the allocation of funds to maintain the ongoing projects as authorized in the Capital Improvement Program. The undedicated revenue to the Highway Fund will increase by \$34,000,000 in fiscal year 1995-96 due to the sale of a Maine Turnpike Authority bond.

Highway and Bridge Improvement

Capital Expenditures	695,793
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Provides for the allocation of funds to the Capital Improvement Program.

Highway and Bridge Improvement

All Other	337,530
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Provides for the allocation of funds for the Capital Improvement Program.

Highway Maintenance

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(84,067)	(86,442)

Provides for the deallocation of funds from the elimination of one Engineering Technician III position and one Engineering Technician IV position.

Highway Maintenance

All Other	(167,467)	(172,846)
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Provides for the deallocation of funds needed for vehicle repair expenses due to the elimination of 2 positions within the Motor Transport Service Program of the Highway Garage Fund and 4 Motor Transport Service crew employment slots.

Highway Maintenance

Positions - Other Count	(-24.0)	(-24.0)
Personal Services	(625,790)	(654,752)

Provides for the deallocation of funds from the elimination of 20 full-time and 8 seasonal Highway Maintenance crew employment slots.

Highway Maintenance

Capital Expenditures	1,963,363
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Provides for the allocation of funds saved by the elimination of positions within the Department of Transportation for the Maintenance Paving Program.

Highway Maintenance

Capital Expenditures	723,624
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Provides for the allocation of funds to the Maintenance Paving Program.

Highway Maintenance

All Other	1,250,000	2,660,000
Capital Expenditures	895,000	2,808,013

TOTAL	2,145,000	5,468,013
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Provides for the allocation of funds to support the following: the Underground Fuel Tank Program; the Underground Floor Drain Program; the Hazardous Waste Storage Program; the Sand-salt Storage Program; and the Maintenance Paving Program.

Local Bridges

Personal Services	(12,246)	(12,736)
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Provides for the deallocation of funds from the determination that payments to the Workers' Compensation Management Fund are eligible as federal expenditures.

Traffic Service

Positions - Legislative Count	(-1.0)	(-1.0)	Relations Specialist		
Personal Services	(56,047)	(56,671)	position; one		
Provides for the			Transportation Planning		
deallocation of funds from			Analyst position; one		
the elimination of one			Transportation Planning		
Engineering Technician V			Specialist position; and		
position.			one Director of Special		
			Projects position. These		
Traffic Service			positions are all split-		
Positions - Other Count	(-2.0)	(-2.0)	funded, 84% Highway		
Personal Services	(48,661)	(50,261)	Fund and 16% Federal		
Provides for the			Expenditure Fund.		
deallocation of funds from			Administration and Planning		
the elimination of one			Personal Services	62,846	65,360
full-time and 2 seasonal			Provides for the allocation		
Traffic Maintenance crew			of funds to support the		
employment slots.			Workers' Compensation		
			Management Fund.		
Traffic Service			Administration and Planning		
Personal Services	(48,481)	(50,420)	All Other	(62,846)	(65,360)
Provides for the			Provides for the		
deallocation of funds from			deallocation of funds from		
the determination that			the reduction of budgeted		
payments to the Workers'			grant expenditures.		
Compensation			Administration and Planning		
Management Fund are			All Other	47,392	47,929
eligible as federal			Provides for the allocation		
expenditures.			of funds saved by the		
DEPARTMENT OF			elimination of personal		
TRANSPORTATION			service costs for the		
TOTAL	36,483,707	6,083,568	Highway Planning and		
SECTION A-1			Research Program.		
TOTAL ALLOCATIONS	33,107,164	6,083,568	Highway and Bridge		
			Improvement		
Sec. A-2. Allocation. The following funds			Personal Services	(783,680)	(806,705)
are allocated from the Federal Expenditure Fund for			Provides for the		
the fiscal year ending June 30, 1996 and June 30,			deallocation of funds from		
1997 to carry out the purposes of this Part.			the elimination of the		
	1995-96	1996-97	following: Four Assistant		
TRANSPORTATION,			Engineer positions; 6		
DEPARTMENT OF			Civil Engineer II		
Administration and Planning			positions; one Civil		
Personal Services	(51,267)	(52,561)	Engineer III position; one		
Provides for the			Clerk Stenographer II		
deallocation of funds from			position; one Clerk Typist		
the elimination of the			II position; one		
following: Three seasonal			Engineering Aide I		
Highway Laborer			position; one Engineering		
positions; one			Aide II position; 2		
Engineering Technician II			Engineering Technician I		
position; one			positions; 2 Engineering		
Management Analyst I			Technician II positions;		
position; one Planning			one Engineering		
and Research Associate I			Technician III position; 3		
position; one Public					

Engineering Technician IV positions; one Engineering Technician V position; 2 Field Inspector positions; 10 Highway Laborer positions; 2 Right-of-way Agent II positions; one Right-of-way Appraiser I position; 2 Right-of-way Appraiser II positions; one Right-of-way Appraiser III position; one Secretary position; one Senior Programmer Analyst position; and one Staff Development Specialist III position. The positions listed above are split-funded, 50% Highway Fund and 50% Federal Expenditure Fund.			Provides for the deallocation of budgeted Capital Expenditures that are no longer required.		
Highway and Bridge Improvement			Railroad Assistance Program		
Personal Services	560,009	582,409	Personal Services	3,553	3,695
Provides for the allocation of funds to support the Workers' Compensation Management Fund.			Provides for the allocation of funds to support the Workers' Compensation Management Fund.		
Highway and Bridge Improvement			Railroad Assistance Program		
Capital Expenditures	(560,009)	(582,409)	All Other	(3,553)	(3,695)
Provides for the deallocation of funds from the reduction of budgeted Capital Expenditures.			Provides for the deallocation of budgeted grant expenditures that are no longer required.		
Highway and Bridge Improvement			Traffic Service		
Capital Expenditures	723,826	735,446	Personal Services	48,481	50,420
Provides for the allocation of funds for the federal share of the Capital Improvement Program.			Provides for the allocation of funds to support the Workers' Compensation Management Fund.		
Local Bridges			Traffic Service		
Personal Services	12,246	12,736	All Other	(48,481)	(50,420)
Provides for the allocation of funds to support the Workers' Compensation Management Fund.			Provides for the deallocation of budgeted material expenditures that are no longer required.		
Local Bridges			Transportation Services		
Capital Expenditures	(12,246)	(12,736)	Personal Services	8,658	9,004
			Provides for the allocation of funds to support the Workers' Compensation Management Fund.		
			Transportation Services		
			Capital Expenditures	(8,658)	(9,004)
			Provides for the deallocation of budgeted Capital Expenditures that are no longer required.		
			DEPARTMENT OF TRANSPORTATION TOTAL		
				(63,729)	(75,891)
			SECTION A-2 TOTAL ALLOCATIONS		
				(63,729)	(75,891)
Sec. A-3. Allocation. The following funds are allocated from the Highway Garage Fund for the					

fiscal year ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

	1995-96	1996-97
TRANSPORTATION, DEPARTMENT OF		
Motor Transport Service		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(29,561)	(29,911)
Provides for the deallocation of funds from the elimination of one Account Clerk I position.		
Motor Transport Service		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(27,650)	(29,014)
Provides for the deallocation of funds from the elimination of one Mechanical Stores Clerk I position.		
Motor Transport Service		
Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(123,410)	(129,792)
Provides for the deallocation of funds from the elimination of 4 full-time Motor Transport Service crew employment slots.		
DEPARTMENT OF TRANSPORTATION TOTAL	<hr/> (180,621)	<hr/> (188,717)
SECTION A-3 TOTAL ALLOCATIONS	<hr/> (\$180,621)	<hr/> (\$188,717)

PART B

Sec. B-1. 6 MRSA §3, sub-§10-C, as enacted by PL 1977, c. 678, §7, is repealed.

Sec. B-2. 6 MRSA §3, sub-§19, as repealed and replaced by PL 1977, c. 678, §10, is repealed.

Sec. B-3. 6 MRSA §11-A, as enacted by PL 1977, c. 678, §25, is repealed.

Sec. B-4. 6 MRSA §12, last ¶, as repealed and replaced by PL 1977, c. 678, §26, is repealed.

Sec. B-5. 6 MRSA §13, 4th ¶, as amended by PL 1985, c. 785, Pt. B, §41, is repealed and the following enacted in its place:

The commissioner may employ, subject to the Civil Service Law, personnel that the commissioner considers necessary to carry out the duties outlined in this chapter or imposed upon the commissioner with respect to aviation.

Sec. B-6. 6 MRSA §303, sub-§4, ¶A, as enacted by PL 1985, c. 610, is repealed.

Sec. B-7. 23 MRSA §4206, sub-§2, ¶B, as repealed and replaced by PL 1981, c. 45, §2, is repealed.

Sec. B-8. 23 MRSA §7103, sub-§3, as amended by PL 1989, c. 791, §§1 and 2, is further amended to read:

3. Use of funds. Subject to the Civil Service Law, money in the fund may be expended to hire employees and to defray other costs authorized by law for the Department of Transportation, ~~Bureau of Transportation Services~~ as follows:

A. To conduct studies relating to the economic impact of rail transportation on the State including cost-benefit analyses associated with the possible retention or loss of individual rail lines;

B. To conduct periodic condition surveys of rail track and other related facilities;

C. To acquire, lease and maintain rail lines when these actions are determined to be in the best interest of the State;

D. To lease, purchase and dispose of railroad operating equipment used on rail lines acquired or leased by the State; and

E. To provide financial assistance and to lease or sell railroad operating equipment to short line operators providing rail service to lines acquired or leased by the State. For purposes of this chapter, a short line operator is any railroad having an annual gross revenue from railroad operations of \$5,000,000 or less, or regularly conducting rail service over less than 100 miles of track.

Sec. B-9. 36 MRSA §656, sub-§1, ¶C, as amended by PL 1991, c. 546, §10, is further amended to read:

C. The landing area of a privately owned airport, the use of which is approved by the ~~Air Transportation Division~~ Department of Transportation, is exempt from taxation when the owner grants free use of that landing area to the public.

Sec. B-10. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 6 the word "director" or the words "Director of the Division of Aeronautics" or

"Director of the Bureau of Aeronautics" appear or reference is made to those words, they are amended to read and mean "commissioner," and wherever in the Maine Revised Statutes the words "Director of the Division of Aeronautics" or "Director of the Bureau of Aeronautics" appear or reference is made to those words, they are amended to read and mean "Commissioner of Transportation" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART C

Sec. C-1. 23 MRSA §1961, sub-§2, as repealed and replaced by PL 1993, c. 680, Pt. A, §24, is amended to read:

2. Cooperation with the Department of Transportation. The Department of Transportation must be provided each year the operating surplus of the Maine Turnpike Authority. The Maine Turnpike Authority may issue bonds or other obligations to pay for Department of Transportation projects. These amounts are considered necessary for use by the department for construction, reconstruction, operation and maintenance of all roads on the state highway system, which serve and benefit users of the turnpike by providing direct and indirect access to and from the turnpike as part of the integrated highway system. Due to the utilization of the state highway system by users of the turnpike, the turnpike and its users have received and will continue to receive a benefit from, or have caused and will continue to cause, or both, the State acting by and through the Department of Transportation to incur costs for the construction, operation and maintenance of the state highway system, which provides direct and indirect access to and from the turnpike to areas in the State for which the State may properly be and should be compensated from the tolls to be collected. The Maine Turnpike Authority should be maintained to carry out the purposes of this chapter in cooperation with the Department of Transportation.

Sec. C-2. 23 MRSA §1964, sub-§4-A is enacted to read:

4-A. Department of Transportation project. "Department of Transportation project" means the rehabilitation, reconstruction or construction of any highway or bridge on the state highway system determined by the department and the authority to have a sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6.

Sec. C-3. 23 MRSA §1964, sub-§6-A, as enacted by IB 1991, c. 1, §4, is amended to read:

6-A. Operating surplus. "Operating surplus" means the total annual operating revenues of the

Maine Turnpike Authority, after money has been put aside to pay the reasonable operating expenses and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority, including any amounts pledged to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations.

Sec. C-4. 23 MRSA §1965, sub-§1, ¶¶O-1 and O-2 are enacted to read:

O-1. Provide for an annual amount not to exceed a maximum of \$4,700,000 to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations, after money has been set aside or adequate provision has been made to pay operating expenses and to meet the requirements of any resolution authorizing revenue bonds of the authority;

O-2. Make a contract or enter into an agreement with or provide certifications and assurances to the Department of Transportation, or any other 3rd party, necessary in connection with the determination of Department of Transportation projects, the issuance of bonds or other obligations pursuant to section 1968, subsection 2-A, the pledge of revenues to the payment of these bonds or obligations or the payment of the costs or a portion of the costs of Department of Transportation projects;

Sec. C-5. 23 MRSA §1968, sub-§2-A is enacted to read:

2-A. Bonds for Department of Transportation projects. In addition to bonds outstanding pursuant to subsections 1 and 2, the authority may provide by resolution from time to time but no later than June 30, 1997 for the issuance of special obligation bonds, including notes or other evidences of indebtedness or obligations defined to be bonds under this chapter, not exceeding \$40,000,000 in aggregate principal amount exclusive of refundings, to pay to the Department of Transportation the costs, or a portion of the costs, of Department of Transportation projects. Department of Transportation projects paid for with bonds in accordance with this subsection must be determined by the Department of Transportation and the authority to have sufficient relationship to the public's use of the turnpike in accordance with section 1974, subsection 6.

Sec. C-6. 23 MRSA §1969, sub-§1, ¶A, as enacted by PL 1981, c. 595, §3, is amended to read:

A. To the payment of the cost of the construction and reconstruction of the turnpike or to the payment to the Department of Transportation of

the cost of Department of Transportation projects;

Sec. C-7. 23 MRSA §1974, sub-§6 is enacted to read:

6. Revenues to secure special obligation bonds for Department of Transportation projects; determination of project eligibility for funding. Subject to the terms and conditions of this chapter, the authority may authorize turnpike revenues to be transferred to a trustee or agent designated by the authority and that trustee or agent shall hold these revenues in trust to secure or to be applied to the payment of obligations issued pursuant to section 1968, subsection 2-A and as provided for in a resolution authorizing the issuance of these bonds or in a related trust indenture or loan or other security agreement.

The Department of Transportation shall provide the authority with a list of proposed Department of Transportation projects and any other information requested by the authority and relating to a project on the list. The Department of Transportation and the authority shall determine Department of Transportation projects that are eligible for funding with proceeds from bonds authorized by section 1968, subsection 2-A. In making this determination, the department and the authority may consider the following factors:

A. The existing access roads and the state highway system;

B. The traffic impact of the maintenance, construction or reconstruction on the existing road network;

C. The total cost of the state highway system;

D. The probable change in departmental expenditures resulting from maintenance, construction or reconstruction of the project;

E. The relative number of vehicles using or expected to use the project on the way to or from the turnpike;

F. The road distance or average road distance of the project or portions of the project from the nearest entrance to or exit from the turnpike;

G. The effect that maintenance, construction or reconstruction will have on the flow of traffic to, from and on the turnpike and in diverting vehicular traffic off or away from the turnpike;

H. The proportionate usage of the state highway system by vehicles using the turnpike and vehicles not using the turnpike;

I. Vehicle classification and travel characteristics;

J. Origins and destinations of trips;

K. Fuel type and consumption;

L. Existing sources of revenue; and

M. Any other factors considered relevant, including, but not limited to, expert opinion.

Sec. C-8. 23 MRSA §4206, sub-§1, ¶M, as amended by PL 1983, c. 477, Pt. E, sub-pt. 26, §8, is further amended to read:

M. Acting upon the advice of the State Tax Assessor, to negotiate a compact with other states, the District of Columbia and Canadian provinces for the administration of user license fees on condition that the compact provides for:

(1) The collection of the annual user license fee for any other state or province by the state or province in which the motor truck is registered;

(2) The disbursement of revenues due to other states or provinces subject to the compact;

(3) The free exchange of information between and among the states or provinces subject to the compact; and

(4) The establishment of identification tags or decals.

The compact ~~shall~~ **must** provide for reciprocal enforcement of the laws establishing the annual user license fees and for the auditing of all books, records and logs of the operator of a motor truck by the state or province in which the motor truck is registered, which pertains to travel in it and any other state or province subject to the compact; and

Sec. C-9. 23 MRSA §4206, sub-§1, ¶N is enacted to read:

N. To make contracts and enter into agreements with and make assurances and certifications to the Maine Turnpike Authority, and other 3rd parties, necessary in connection with determination of Department of Transportation projects and the issuance of bonds or obligations pursuant to section 1968, subsection 2-A.

Sec. C-10. Provisions of the Maine Revised Statutes, Title 23, section 1974, former subsection 4. For purposes of any resolution initially adopted prior to December 20, 1991, the

Maine Revised Statutes, Title 23, section 1974, subsection 6 governs rather than Title 23, section 1974, former subsection 4.

Effective March 1, 1996.

CHAPTER 505

S.P. 477 - L.D. 1301

An Act to Transfer Oversight of Commercial Driver Education Programs to the Secretary of State

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

Whereas, this legislation has an effective date of January 1, 1996; 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. 3 MRSA §927, sub-§6, ¶C, as enacted by PL 1993, c. 600, Pt. A, §4, is amended to read:

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. 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 Examin-

ers 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 Board of Podiatrists~~ Licensure of Podiatric Medicine, 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~~ constitutes a fund, which ~~shall be~~ is a continuous carrying account for the payment of the compensation and expenses of the members, and the expenses of the board and for executing the law relating to each board respectively, and as much ~~thereof~~ of the fund as may be required is appropriated for these purposes. The secretary of each board ~~shall be reimbursed~~ is entitled to reimbursement for all expenditures for books, stationery, printing and other necessary expenses incurred in the discharge of ~~his the secretary's~~ 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. 3. 5 MRSA §12004-A, sub-§12, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 4. 10 MRSA §8001, sub-§10, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, is repealed.

Sec. 5. 20-A MRSA §8702, as amended by PL 1989, c. 721, §1, is repealed and the following enacted in its place:

§8702. Curriculum

A driver education course offered in accordance with section 8701 must meet the curriculum requirements prescribed by the Secretary of State, include both classroom instruction and practice driving and be approved by the Secretary of State. Any state subsidy, state reimbursement for expenditures on adult education programs or state reimbursement for adult applied technology education programs may not be paid with respect to any driver education course that has not been approved by the Secretary of State.

Sec. 6. 20-A MRSA §8703, as corrected by RR 1991, c. 2, §65, is amended to read:

§8703. Driver education teachers

~~Instructors shall~~ A driver education teacher must hold certification a license to teach driver education.

1. Licensing. Only a person ~~certified~~ licensed by the ~~commissioner~~ Secretary of State as a driver education teacher may be employed by a public secondary school, approved private secondary school, an applied technology center, applied technology region or adult education program, conducted pursuant to chapter 315, to teach driver education. The ~~commissioner~~ Secretary of State shall establish instructor qualification requirements for ~~a person to obtain certification~~ persons licensed to teach courses in preparation for a Class 1 or Class 2 license driver education. Those requirements may be no less rigorous than any similar requirements prescribed by the Board of Commercial Driver Education.

2. Temporary license. If a ~~certified instructor~~ licensed driver education teacher is not available to teach driver education and the school board, cooperative board or private school requests, the ~~commissioner~~ Secretary of State shall grant a temporary ~~certificate~~ license to any person who holds a Class A instructor's license issued by the ~~Board of Commercial Driver Education pursuant to Title 32, section 9601, subsection 2 and section 9603~~ Secretary of State in accordance with Title 29-A, section 1354.

3. Contracts. A public secondary school, approved private secondary school, an applied technology center, applied technology region or adult education program conducted pursuant to chapter 315 may contract with a commercial driver education school to provide driver education as part of the secondary school curriculum ~~provided that an~~ if the instructor is properly ~~certified~~ licensed.

Sec. 7. 20-A MRSA §8705, as corrected by RR 1993, c. 1, §49, is amended to read:

§8705. Departmental personnel

The ~~commissioner~~ Secretary of State shall employ necessary personnel, subject to the terms of the Civil Service Law, to implement this chapter.

Sec. 8. 20-A MRSA §8706, as enacted by PL 1985, c. 797, §45, is amended to read:

§8706. Rules

The ~~commissioner~~ Secretary of State shall adopt rules to implement this chapter.

Sec. 9. 20-A MRSA §9501, sub-§2, as amended by PL 1983, c. 841, §2, is further amended to read:

2. Exemptions. Educational programs related to the real estate professions ~~which that~~ are subject to approval under Title 32, chapter 59, commercial driver ~~educational~~ education schools subject to approval by the ~~Board of Commercial Driver Education~~ Secretary of State under Title 32 ~~29-A~~, chapter ~~95~~ 11, subchapter ~~III~~, educational programs offered by any Maine nonprofit corporation, any educational programs offered by any professional or trade association primarily for the benefit of its own members and any educational institution authorized by the laws of this State to grant a degree are exempt from the requirements of this chapter.

Sec. 10. 23 MRSA §4208, 2nd ¶, as enacted by PL 1989, c. 721, §2, is amended to read:

The course must include ~~the instruction described in Title 32, section 9602, subsection 6~~ instruction in the existence and the practical purpose of parking laws and ordinances for persons with disabilities.

Sec. 11. 29-A MRSA §1304, sub-§1, ¶F, as enacted by PL 1993, c. 683, Pt. A, §2, and affected by Pt. B, §5, is amended to read:

F. The Secretary of State may issue a restricted instruction permit to an applicant who is enrolled in a driver education program that includes practice driving. That permit is valid:

(1) For a school year or other specified period; and

(2) Only when the permittee is accompanied by ~~an instructor approved by the Commissioner of Education or a commercial driver education instructor licensed by the Board of Commercial Driver Education~~ a driver education teacher or a commercial driver education instructor, licensed by the Secretary of State under subchapter III.

Sec. 12. 29-A MRSA §1351, sub-§2, ¶D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. Person licensed by the ~~Board of Commercial Driver Education~~ Secretary of State.

Sec. 13. 29-A MRSA §1351, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Certificate. A successful course completion certificate may be issued if the course meets the standards adopted by the ~~Commissioner of Education or the commercial driver education school licensing requirements under Title 32, chapter 95~~ Secretary of State. A certificate may not be issued to a person who was not at least 15 years of age when beginning the course.

Sec. 14. 29-A MRSA §1352, sub-§3, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 15. 29-A MRSA §1354 is enacted to read:

§1354. Driver education programs

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

A. "Applicant," as applied to a firm, partnership or association, includes the members of the firm, partnership or association and, as applied to a corporation, includes the officers and directors of the corporation.

B. "Commercial driver education school" means a person engaged in teaching driver education for remuneration. Commercial driver education school does not include a noncommercial driver education school as defined in paragraph G.

C. "Driver education" means any type of instruction or tutoring given to a person in the driving of a motor vehicle or in preparing for a driver examination in exchange for remuneration or course credit.

D. "Driver education school" means a commercial driver education school or a noncommercial driver education school.

E. "Driver education teacher" means a person certified as a teacher by the Commissioner of the Department of Education and employed by a public secondary school, approved private secondary school, applied technology center, applied technology region or adult education program, conducted pursuant to Title 20-A,

chapter 315 and licensed by the Secretary of State to teach driver education.

F. "Instructor" means a person engaged in teaching driver education in a commercial driver education school.

G. "Noncommercial driver education school" means a public secondary school, an approved private secondary school, applied technology center, applied technology region or adult education program conducted pursuant to Title 20-A, chapter 315 that offers driver education.

H. "Person" means an individual or individuals, firm, partnership, association or corporation. When used in any provision of this chapter that prescribes or imposes a fine or imprisonment, or both, "person," as applied to a corporation, includes the officers of the corporation. A firm, partnership, association or corporation may be subjected, as an entity, to the payment of a fine.

2. Licenses required. A person may not operate a driver education school, conduct driver education or act as an instructor or driver education teacher unless licensed by the Secretary of State.

A. A Class A driver education school license may be issued to a driver education school that employs Class A or Class B instructors or driver education teachers and that is authorized to teach both the classroom and behind-the-wheel phases of driver education.

B. A Class A instructor or driver education teacher license authorizes the holder to teach both the classroom and behind-the-wheel phases of driver education as an employee or affiliate of a licensed driver education school.

C. A Class B instructor or driver education teacher license authorizes the holder to teach only the behind-the-wheel phase of driver education as an employee or affiliate of a licensed driver education school.

3. Commercial driver education school license requirements. With assistance from the Technical Review Panel established in subsection 6, the Secretary of State shall adopt rules governing the curriculum, facilities, operations, including record-keeping requirements and issuance and renewal of licenses for noncommercial driver education schools and commercial driver education schools and for driver education teachers and instructors.

A. The Secretary of State may not issue a license for a driver education school until the applicant has filed with the Secretary of State a certificate showing that the applicant is covered

by an automobile bodily injury and property damage liability insurance policy insuring against any legal liability in accordance with the terms of the policy for personal injury or death of any one person in the sum of \$100,000 and for any number of persons in the sum of \$300,000 and against property damage in the sum of \$100,000 arising from the operation of any vehicle being used in a commercial driver education school. In lieu of that insurance, the applicant may file with the Secretary of State a bond or bonds issued by a surety company authorized to do business in the State in the amount of at least \$100,000 on account of injury to or death of one person and subject to such limits as respects injury to or death of one person, of at least \$300,000 on account of any one accident resulting in injury to or death of more than one person and of at least \$100,000 for damage to property of others. Failure to comply with this subsection is grounds for suspension or revocation of a driver education school license.

B. A vehicle used as a training vehicle must be maintained in safe mechanical condition at all times. Each vehicle must be equipped with dual-control foot brakes and, if the vehicle is not equipped with an automatic transmission, dual-control clutch pedals. While being used in actual instruction, a 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, if they are equipped with dual controls as required in this paragraph and comply with any other applicable requirements:

(1) A vehicle that is being used to instruct a person with a disability and is specially equipped for use by a person with a disability; and

(2) A vehicle that is being used to instruct a person in possession of a valid Maine driver's license or instruction permit not provided by the driver education school.

4. Driver education teacher and instructor license requirements. With assistance from the Technical Review Panel established in subsection 6, the Secretary of State shall adopt rules governing the issuance and renewal of driver education teacher and instructor licenses. In addition to the requirements established by rule, each applicant must meet the following requirements:

A. The applicant must be at least 21 years of age and have a high school diploma or its equivalent;

B. The applicant must have at least 4 years of driver experience as a licensed operator;

C. The applicant may not have had a license revoked pursuant to chapter 23, subchapter V within the preceding 6-year period;

D. The applicant may not have had an OUI as defined in section 2401, subsection 8 within the preceding 6-year period;

E. The applicant must pass an examination consisting of a knowledge, vision and road test in the type of vehicle for which the license is to be used as prescribed by the Secretary of State; and

F. The applicant must complete an educational program prescribed by the Secretary of State.

5. License fees. Except as provided in section 1355, license fees must be paid to the Secretary of State and deposited to the Highway Fund. The following provisions and fees apply.

A. The fee for a commercial driver education school license is \$250.

B. The fee for an instructor license is \$125.

C. Each license issued pursuant to this section expires one year from the date of issuance. The fee for the renewal of a commercial driver education school license is \$250. The fee for the renewal of an instructor license is \$125.

D. A noncommercial driver education school is exempt from the license fees required in this subsection. A driver education teacher employed by and providing driver education only in a school exempt from license fees in accordance with this paragraph is also exempt from license fees required in this subsection.

This subsection is repealed December 31, 1996.

5-A. License fees. Except as provided in section 1355, license fees must be paid to the Secretary of State and deposited into the Highway Fund. The following fees apply.

A. The fee for a driver education school license is \$125.

B. The fee for a driver education teacher or instructor license is \$80.

C. Each license issued pursuant to this section expires one year from the date of issuance. The fee for the renewal of a driver education school license is \$125. The fee for the renewal of a driver education teacher or instructor license is \$80.

D. A noncommercial driver education school that offers driver education for course credit and does not charge a fee for driver education is exempt from the license fees required in this subsection. A driver education teacher employed by and providing driver education only in a school exempt from license fees in accordance with this paragraph is also exempt from license fees required in this subsection.

This subsection takes effect January 1, 1997.

6. Secretary of State duties. The Secretary of State has the following duties.

A. The Secretary of State shall establish the Technical Review Panel that includes representatives from the Department of Education, the Department of Public Safety, the American Automobile Association, the Maine Highway Safety Commission, law enforcement agencies, the insurance industry and a driver education teacher and instructor. The Technical Review Panel shall assist the Secretary of State in developing curriculum and teacher and instructor training and certification.

B. The Secretary of State shall develop and implement a standardized driver education curriculum that establishes minimum standards for instructional goals and learning objectives.

C. The Secretary of State shall develop and implement training programs for the licensing and relicensing of driver education teachers and instructors.

D. The Secretary of State shall monitor classroom and behind-the-wheel instruction for compliance with statutory and regulatory requirements.

E. The Secretary of State shall develop and implement a system to monitor the driving records of individuals who complete a driver education program to assist in the evaluation of the effectiveness of driver education instruction and curriculum.

F. The Secretary of State shall inspect driver education schools to review records, facilities, operating procedures, quality of instruction and compliance with statutory and regulatory requirements.

G. The Secretary of State shall investigate written complaints regarding the activities of driver education schools and driver education teachers and instructors.

7. Penalties. A person who conducts driver education, operates a driver education school or acts as a driver education teacher or instructor without a license 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 proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

8. Suspension or revocation of license; hearings. The Secretary of State may suspend, revoke or refuse to issue or renew a driver education school or driver education teacher or instructor license for noncompliance with statutory and regulatory requirements. A person refused a license or whose license is suspended or revoked may request a hearing with the Secretary of State. A requested hearing must be conducted pursuant to chapter 23, subchapter II, article 3.

9. Insurance for graduates. Rating bureaus or independent insurers as recognized by the Superintendent of Insurance may grant an automobile insurance discount for driver education school graduates.

Sec. 16. 29-A MRSA §1355 is enacted to read:

§1355. Collection of license fees

All fees collected for the 1996 license year must be deposited in the Highway Fund except \$2,413 that is allocated to the Department of Professional and Financial Regulation for the purpose of administering the driver education program established in section 1354 until May 1, 1996.

Sec. 17. 32 MRSA c. 95, as amended, is repealed.

Sec. 18. Driver education programs; impact on licenses; certifications in effect. All licenses or certifications issued pursuant to the authority in the Maine Revised Statutes, Title 20-A, chapter 316 or Title 32, chapter 95 that are in effect on the effective date of this Act continue to be valid under the terms of issuance until the licenses or certifications expire or are rescinded, amended, revised or revoked by the proper authority.

Sec. 19. Driver education programs; transition provisions. All existing rules, regulations and procedures in effect, in operation or promulgated by the Department of Education regarding the administration of driver education programs in public secondary schools, approved private secondary schools, applied technology centers, applied technology regions and adult education programs conducted pursuant to the Maine Revised

Statutes, Title 20-A, chapter 316 are in effect and continue in effect until rescinded, revised or amended by the proper authority.

All existing contracts, agreements, compacts, leases, authorizations, notes or bonds that had been in effect on the effective date of this Act continue to be valid under the terms of issuance until they expire or are rescinded, amended, revised or revoked by the proper authority.

All records or copies of records regarding the administration and operation of driver education programs in public secondary schools, approved private secondary schools, applied technology centers, applied technology regions and adult education programs conducted pursuant to the Maine Revised Statutes, Title 20-A, chapter 316 within the jurisdiction of the Department of Education must be transferred to the Secretary of State on or before the effective date of this Act.

The Secretary of State is the successor in every way to the powers, duties and functions of the former Board of Commercial Driver Education within the Department of Professional and Financial Regulation.

All existing rules, regulations and procedures in effect, in operation or adopted in or by the Board of Commercial Driver Education within the Department of Professional and Financial Regulation or any of its administrative units or officers, remain in effect and continue in effect until rescinded, revised or amended by the Secretary of State.

All existing contracts, agreements and compacts in effect on the effective date of this Act in the Board of Commercial Driver Education within the Department of Professional and Financial Regulation continue to be valid under the terms of issuance until those existing contracts, agreements and compacts expire or are rescinded, amended, revised or revoked by the proper authority.

All records, property and equipment previously belonging to or allocated for the use of the former Board of Commercial Driver Education within the Department of Professional and Financial Regulation become on the effective date of this Act part of the property of the Secretary of State.

All accrued expenditures, assets, liabilities, balances of funds, transfers, revenues or other available funds of the former Board of Commercial Driver Education must be reallocated to the Secretary of State.

Sec. 20. 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	(2.0)	(2.0)
Personal Services	\$11,790	\$63,580
All Other	5,198	10,397
Capital Expenditures	9,500	
Provides funds for one Driver License Examiner position, one Clerk IV position and general operating expenses required to administer the driver education programs.		
DEPARTMENT OF THE SECRETARY OF STATE TOTAL		
	\$26,488	\$73,977

Sec. 21. 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		
Board of Commercial Driver Education		
Personal Services	(\$349)	(\$420)
All Other	(6,061)	(7,490)
Deallocates funds to reflect the transfer of regulatory responsibility for commercial driver education to the Secretary of State.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL		
	(\$6,410)	(\$7,910)

Sec. 22. Effective date. This Act takes effect January 1, 1996, except that the transfer of driver education programs to the Secretary of State takes effect May 1, 1996.

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

Effective December 7, 1995, unless otherwise indicated.

CHAPTER 506**H.P. 1149 - L.D. 1588****An Act to Clarify the Referendum Recount Process**

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

Whereas, current law does not adequately provide for the event of a statewide referendum recount; and

Whereas, a recount on a statewide referendum has been requested; 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 §738, as amended by PL 1993, c. 473, §32 and affected by §46, is further amended to read:

§738. Statewide referendum ballots

Except as otherwise provided in this section, the method of conducting a referendum recount is governed by section 737-A.

On petition signed by 100 or more affected voters, a recount may be held on any referendum question by applying to the Secretary of State within the deadline provided in section 737-A. A deposit is required if the percentage difference between the yes and no votes falls within the requirements of section 737-A, subsection 1. Appeal of challenged or disputed ballots is to the Supreme Judicial Court.

If a ballot contains state and local candidates or questions, the Secretary of State shall determine which requests for recount must be honored first when more than one request is presented.

Sec. 2. Committee directed to report out legislation. The joint standing committee of the Legislature having jurisdiction over legal and veterans affairs shall report out legislation to the Second Regular Session of the 117th Legislature related to the recount process for referendum questions.

Sec. 3. Application. Notwithstanding Title 1, section 302, section 1 of this Act applies to all

requests for a statewide referendum recount that exist on the effective date of this Act.

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

Effective December 7, 1995.

CHAPTER 507**H.P. 1158 - L.D. 1592****An Act to Implement the Productivity Plan of the Department of Marine Resources**

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

Whereas, this legislation establishes the Aquarium and Resource Center at West Boothbay Harbor Fund; and

Whereas, it is essential that this fund be established 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. 12 MRSA §6030 is enacted to read:

§6030. Aquarium and Resource Center at West Boothbay Harbor Fund

1. Fund. There is established the Aquarium and Resource Center at West Boothbay Harbor Fund, referred to in this section as the "fund." The department is authorized to set and receive fees to be deposited in the fund. The fund receives all funds collected by the department from the operation of the Aquarium and Resource Center at West Boothbay Harbor, including admission fees, the proceeds of sales at the Aquarium and Resource Center at West Boothbay Harbor and donations, grants or other funds presented to the department for the benefit of the Aquarium and Resource Center at West Boothbay Harbor and its educational programs. All money deposited in the fund and the earnings on the money remain in the fund to be used for the management and maintenance of the Aquarium and Resource Center at West Boothbay Harbor and its programs that educate

the State's children, teachers and visitors about the State's marine resources. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the same purpose.

2. Annual report. By February 1st of each year the commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over fisheries matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The report must detail the amount of money collected in the fund over the course of the prior year and the expense of managing and maintaining the Aquarium and Resource Center at West Boothbay Harbor and its programs. The commissioner shall make recommendations concerning how the fund may be increased or expenses reduced or both so that the Aquarium and Resource Center at West Boothbay Harbor and its programs become increasingly financially self-sustaining.

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
MARINE RESOURCES,		
DEPARTMENT OF		
Bureau of Marine Sciences		
All Other	\$25,000	\$125,000
Provides allocations to establish the Aquarium and Resource Center at West Boothbay Harbor Fund.		

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

Effective December 7, 1995.

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

CHAPTER 51

H.P. 1166 - L.D. 1599

**An Act to Temporarily Reestablish
Eligibility Standards for Low-
Income Home Energy Assistance**

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

Whereas, recent funding decisions related to the federal Low-Income Home Energy Assistance Program have created significant financial hardships for Maine's low-income, elderly and disabled citizens; 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. Eligibility and payment standards. Notwithstanding any other provision of law, until March 1, 1996, the Maine State Housing Authority shall extend eligibility for low-income home energy assistance on the same basis as eligibility was determined during the 1994-95 heating season and make benefit payments in amounts determined by the authority.

Sec. 2. Joint Standing Committee on Human Resources; hearing and legislation. The Joint Standing Committee on Human Resources shall hold a public hearing by January 31, 1996 to, at a minimum:

1. Seek alternatives to address State and Federal Government actions that have had an impact on the federal Low-Income Home Energy Assistance Program in relationship to the federal food stamp program; and
2. Consider long-term solutions and alternatives to provide adequate support within existing budgeted

resources for the State's low income, elderly and disabled citizens.

The committee may report out legislation or other recommendations related to the issues addressed at the hearing to the Second Regular Session of the Legislature no later than March 1, 1996.

Sec. 3. Repeal. This Act is repealed March 1, 1996.

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

Effective December 1, 1995.

**RESOLVES OF THE STATE OF MAINE
AS PASSED AT
THE FIRST SPECIAL SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995**

CHAPTER 58

S.P. 606 - L.D. 1598

**Resolve, to Amend Provisions of the
Androscoggin County Budget
Process**

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

Whereas, Androscoggin County is required to submit a budget pursuant to Resolve 1995, chapter 44, section 4, before the 90 days 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

Sec. 1. Resolve 1995, c. 44, section 4 repealed. Resolved: That Resolve 1995, c. 44, section 4 is repealed.

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

Effective December 7, 1995.

**CONSTITUTIONAL RESOLUTIONS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST SPECIAL SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995**

(There were none)

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

CHAPTER 508

H.P. 1180 - L.D. 1619

**An Act to Repeal the Sunset
Provision for Distribution 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, the provision governing distribution from the Maine Environmental Trust Fund will be repealed on March 31, 1996; and

Whereas, this legislation eliminates the language that would repeal this provision; 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 repealed and replaced by PL 1995, c. 217, §1, is amended to read:

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 January 29, 1996.

CHAPTER 509

S.P. 698 - L.D. 1779

**An Act to Extend Certain Reporting
Deadlines**

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

Whereas, the Task Force to Monitor Deregulation of Hospitals, the Commission to Study Biotechnology and Genetic Engineering, the Judicial Compensation Commission, the Director of the State Planning Office, the Home School Study Committee, the Commission on Higher Education Governance and the Task Force on Tax Increment Financing require additional time in order to complete in a comprehensive and meaningful manner the tasks assigned by 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. 4 MRSA §1701, sub-§13, as enacted by PL 1995, c. 451, §1, is amended to read:

13. Biennial report required. No later than December 1st of each ~~odd-numbered~~ even-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.

Sec. 2. PL 1995, c. 368, Pt. W, §12, sub-§1 is amended to read:

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~~ February 15, 1995 1996 its findings and recommendations concerning the collection of clinical and financial data and the development of a financial analysis capability.

Sec. 3. PL 1995, c. 395, Pt. Q, §7 is amended to read:

Sec. Q-7. Report. The commission shall submit ~~a~~ an interim report to the Legislative Council and the Joint Standing Committee on Education and Cultural Affairs by March 1, 1996 that must address the following issues: access to opportunity for higher education in Maine; systems and inter-system governance structures and opportunities for improvement; and community college issues. The commission shall also submit a work plan and budget to the Legislative Council. A final report outlining its the commission's findings pursuant to section 4 of this Part, together with any necessary implementing legislation, must be submitted to the Second Regular Session of the 117th Legislature no later than ~~December 15, 1995~~ June 30, 1996. The commission must meet the deadline for the interim report and must submit a work plan and budget in order for the commission to be authorized to continue working until June 30, 1996.

Sec. 4. PL 1995, c. 465, Pt. C, §1, sub-§1 is amended to read:

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~~ March 1, 1996, 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.

Sec. 5. Resolve 1993, c. 62, §4, as amended by Resolve 1995, c. 9, §1, is further amended to read:

Sec. 4. Report completed. Resolved: That the Home School Study Committee shall submit its report, including any necessary legislation, to the Second Regular Session of the 117th Legislature and the Governor no later than ~~November 15, 1995~~ February 23, 1996.

Sec. 6. Resolve 1993, c. 72, §7, as amended by Resolve 1995, c. 7, §1 and affected by §2, is further amended to read:

Sec. 7. Report. Resolved: That the commission shall submit its report with any accompanying legislation to the ~~First~~ Second Regular Session of the 117th Legislature by ~~November 1, 1995~~ February 15, 1996; and be it further

Sec. 7. Resolve 1995, c. 51, §9 is amended to read:

Sec. 9. Report. Resolved: That the task force shall submit its reports with any accompanying legislation to the Second Regular Session of the 117th Legislature by ~~December 15, 1995~~ January 31, 1996; and be it further

Sec. 8. Retroactivity. This Act applies retroactively to November 1, 1995.

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

Effective February 14, 1996.

CHAPTER 510

H.P. 1174 - L.D. 1606

An Act to Amend the Overtime Laws as They Pertain to Bonuses

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

Whereas, the Legislature amended the minimum wage law in the First Regular Session of the 117th Legislature, in part, to make it easier to understand; and

Whereas, some members of the business community are confused about whether the law was

intended to require a change in the calculation of overtime pay; and

Whereas, this law affects many Maine employers and employees and should be clarified as soon 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. 26 MRSA §664, sub-§3, as enacted by PL 1995, c. 305, §1, is amended to read:

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 performed and does not include any sums excluded from the definition of "regular rate" under the Fair Labor Standards Act, 29 United States Code, Section 207(e).

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.

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

Effective February 22, 1996.

CHAPTER 511

S.P. 620 - L.D. 1625

An Act to Restore the Safety Defense to the Maine Human Rights Act

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

Whereas, the law providing the safety defense under the Maine Human Rights Act was repealed September 29, 1995; and

Whereas, it is necessary to restore the safety defense to the Maine Human Rights Act 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. 5 MRSA §4573-A, sub-§§1-A and 1-B are enacted to read:

1-A. Qualification standards defined. For the purposes of this section, the term "qualification standards" may include a requirement that an individual does not pose a direct threat to the health or safety of other individuals in the workplace.

1-B. Physical or mental disability. This subchapter does not prohibit an employer from discharging or refusing to hire an individual with physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an individual with physical or mental disability, if the individual, because of the physical or mental disability, is unable to perform the duties or to perform the duties in a manner that would not endanger the health or safety of the individual or others or is unable to be at, remain at or go to or from the place where the duties of employment are to be performed.

Sec. 2. 5 MRSA §4592, as amended by PL 1995, c. 393, §§22 to 24, is further amended by adding a new first paragraph to read:

This section does not require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of that entity when the individual poses a direct threat to the health or safety of others. For the purposes of this section, the term "direct threat" means a significant risk to the health or safety of others that can not be eliminated by a modification of policies, practices or procedures or by the provision of auxiliary aids or services.

Sec. 3. Retroactivity. This Act applies retroactively to September 29, 1995.

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

Effective February 22, 1996

CHAPTER 512

H.P. 1184 - L.D. 1622

An Act to Promote Parity Between State and Federally Chartered Credit Unions

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

Sec. 1. 9-B MRSA §827, as repealed and replaced by PL 1983, c. 51, §2, is amended to read:

§827. Accounts

1. Receipt of savings. A credit union may receive savings of its members in payment for shares, Christmas clubs, special purpose clubs, tax clubs, deposit accounts and the like.

2. Receipt of payments from government agencies. A credit union may act as fiscal agent for and receive payments on shares and deposits from the Federal Government, this State or any agency or political subdivision.

3. Lien on shares. A credit union may impress and enforce a lien on the shares and dividends of a member to the extent of any loan made to and any dues or charges payable by that member.

Sec. 2. 9-B MRSA §846, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Voting. ~~No A member shall may not~~ be entitled to vote by proxy, except in a vote for dissolution, or have more than one vote; and a member under the age of 18 ~~shall not may~~ be entitled to vote, subject to conditions prescribed in the bylaws. A fraternal organization, voluntary association, partnership or corporation having membership in a credit union may cast one vote at any of the meetings of the credit union by a duly delegated agent.

Sec. 3. 9-B MRSA §857-A, sub-§1, as amended by PL 1987, c. 405, §31, is further amended to read:

1. Authorization; limitations. Subject to the limitations set forth in sections 854 and 855, the credit committee of a credit union may approve a line of credit to a member upon written application by the member, and advances may be made to that member within the limits of that extension of credit. A line of credit given pursuant to this section, ~~other than a line of credit secured by real estate, shall expire no later than 12 months after its approval unless renewed in the same manner in which it was originally given, but no additional loan applications shall be required from the member so long as the aggregate obligation outstanding at any time does not exceed the specified limit of that extension of credit must be reviewed periodically by a loan officer or the credit committee in accordance with the policy established under section 854.~~

Sec. 4. 9-B MRSA §862, sub-§5, as enacted by PL 1991, c. 386, §24, is amended to read:

5. Federal Home Loan Bank and National Credit Union Administration Central Liquidity Facility membership. A credit union may become a member and stockholder ~~in a Federal Home Loan Bank within the Federal Home Loan Bank district where that credit union is situated.~~ of the following:

A. A Federal Home Loan Bank within the Federal Home Loan Bank district where that credit union is located; and

B. The National Credit Union Administration Central Liquidity Facility, subject to the conditions and limitations prescribed under the Federal Credit Union Act, 12 United States Code, Sections 1751 to 1795k (1988).

Sec. 5. 9-B MRSA §862, last ¶, as amended by PL 1991, c. 386, §25, is further amended to read:

~~Nothing contained in this~~ This section may not be construed as authorizing to authorize a credit union to purchase or invest in the stock of any corporation, except for the purchase of stock in the Federal Home Loan Bank or the National Credit Union Administra-

tion Central Liquidity Facility for purposes of establishing membership in ~~that system~~ those systems.

See title page for effective date.

CHAPTER 513

H.P. 543 - L.D. 739

An Act to Allow Issuance of Duplicate Registrations for Trailers and Semitrailers

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

Sec. 1. 29-A MRSA §511, sub-§4 is enacted to read:

4. Duplicate registrations for trailers and semitrailers. At the time of registration, a person registering a trailer or semitrailer that exceeds 2,000 pounds, in accordance with this section or section 512, may apply for and receive a duplicate registration for an additional \$2 fee. This subsection does not apply to camp trailers.

See title page for effective date.

CHAPTER 514

S.P. 619 - L.D. 1624

An Act to Update and Clarify the Corporate Laws

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

Sec. 1. 13-A MRSA §1106, sub-§2, as enacted by PL 1971, c. 439, §1, is repealed and the following enacted in its place:

2. The corporation shall notify immediately the State Tax Assessor and each known creditor of the corporation of the filing of the statement of intent to dissolve;

Sec. 2. 13-B MRSA §301, sub-§3, as amended by PL 1979, c. 663, §72, is further amended to read:

3. Grants. Any corporation may grant to any domestic business or nonprofit corporation or any foreign business or nonprofit corporation authorized to carry on activities 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~~ a grant, the

exclusive right ~~thereafter~~ after the making of a grant 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 trademark~~ 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 thereafter~~ may not 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 an affiliation exists and must be dated and signed by an officer. The letter must demonstrate how the corporation attempting to file is affiliated with the controlling entity.

Sec. 3. 31 MRSA §406, sub-§2, ¶¶D and E, as enacted by PL 1991, c. 552, §2 and affected by §4, are amended to read:

D. A statement that it is actually ~~engaged in~~ doing business ~~activities~~;

E. A brief statement of the ~~activities~~ business in which it is engaged; and

Sec. 4. 31 MRSA §606, sub-§2, ¶D, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

D. A statement that it is actually ~~engaged in~~ doing business ~~activities~~;

Sec. 5. 31 MRSA §606, sub-§2, ¶E, as amended by PL 1995, c. 458, §20, is further amended to read:

E. A brief statement of the ~~activities~~ business in which it is engaged; and

Sec. 6. 31 MRSA §622, sub-§1, ¶C, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

C. If management of the limited liability company is vested in a manager or managers:

(1) A statement to that effect;

(2) The minimum and maximum number of managers permitted; and

(3) If the initial managers have been selected, the name and the business, residence or mailing address of each initial manager.

Sec. 7. 31 MRSA §623, sub-§3, ¶¶C and D, as enacted by PL 1993, c. 718, Pt. A, §1, are amended to read:

C. A change in whether the management of the limited liability company is vested in managers or members; ~~or~~

D. A manager or, if there is no manager, a member becomes aware that the articles of organization contain a false or erroneous statement; ~~or~~

Sec. 8. 31 MRSA §623, sub-§3, ¶E is enacted to read:

E. A change either in the minimum or maximum number of managers.

Sec. 9. 31 MRSA §751, sub-§16, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

16. Certified copies. For providing certified copies of any paper on file as provided for by this chapter, a fee of \$5 for each copy certified in addition to any fee due under subsection ~~44~~ 15;

See title page for effective date.

CHAPTER 515

H.P. 1186 - L.D. 1627

An Act to Change the Name of the Maine Youth Apprenticeship Program to the Maine Career Advantage

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

Sec. 1. 20-A MRSA c. 432 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 432

MAINE CAREER ADVANTAGE

Sec. 2. 20-A MRSA §12731, first ¶, as enacted by PL 1993, c. 392, §2, is amended to read:

The Maine Technical College System in cooperation with the Department of Education and the Department of Labor is authorized to provide comprehensive administrative and financial services to the Maine ~~Youth Apprenticeship Program~~ Career Advantage, a nonprofit corporation organized under

the laws of the State of Maine to provide an additional education option, through a partnership between business and education, for high school students and young adults to obtain classroom instruction and on-the-job training that prepares them directly for career-related employment or continued education. The sole purpose of the Maine ~~Youth Apprenticeship Program~~ Career Advantage, referred to in this chapter as "the program," is to assist the Maine Technical College System, public secondary schools and other publicly supported educational institutions in the State in providing a combination of academic learning and structured work-based learning at businesses in the State to students enrolled at Maine Technical College System facilities, public secondary schools or other publicly supported educational institutions.

Sec. 3. 20-A MRSA §12734, sub-§4, as enacted by PL 1993, c. 392, §2, is amended to read:

4. Officers and staff. The officers of the board consist of a chair and vice-chair, elected by the board from the board membership for a term of one year. Officers may be elected for one additional term. The vice-chair serves as the chair in the absence of the chair. The board is staffed by the Maine ~~Youth Apprenticeship Program~~ Career Advantage staff.

See title page for effective date.

CHAPTER 516

H.P. 1213 - L.D. 1663

An Act to Clarify the Laws Regarding the Issuance of a Credit Card to Benefit the Land for Maine's Future Fund

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

Whereas, this Act addresses inadvertent limitations in legislation previously enacted to authorize a program beneficial to the Land for Maine's Future Fund; 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 §6211, as enacted by PL 1995, c. 358, §1, is amended 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, or other credit card issuer 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 or other credit card issuer 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 or other credit card issuer to market the card successfully; and
- C. Customer service offered by the financial institution or other credit card issuer.

3. Distribution of proceeds. Funds received by the Land for Maine's Future Board under the agreement with the financial institution ~~or~~ credit union or other credit card issuer must be deposited in the Land for Maine's Future Fund.

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

Effective March 5, 1996.

CHAPTER 517

H.P. 1227 - L.D. 1680

An Act Concerning Portable Scale Tolerances on the Interstate Highway System

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

Sec. 1. 29-A MRSA §2360, sub-§15 is enacted to read:

15. Portable scale allowance factor. For vehicles operating on the Interstate Highway System it is not a violation if the gross vehicle weight or axle weights measured by portable scales approved by the

Department of Transportation do not exceed 104% of the allowable weights provided by section 2355, subsections 1 and 2.

See title page for effective date.

CHAPTER 518

H.P. 1235 - L.D. 1695

An Act to Amend the Laws Regarding Drag Limits in South Bay

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

Sec. 1. 12 MRSA §6954-B, as enacted by PL 1995, c. 278, §1, is amended to read:

§6954-B. Drag limits in South Bay in Lubec

It is unlawful to fish in South Bay in ~~Eastport~~ Lubec, 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 519

H.P. 1241 - L.D. 1701

An Act to Reduce the Number of Legislative Confirmation Hearings

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

Sec. 1. 5 MRSA §13063-A, sub-§3, as enacted by PL 1993, c. 410, Pt. RRR, §1, is amended to read:

3. Board of directors. The Board of Directors of the Maine Education and Training Export Partnership consists of up to 15 members appointed by the Governor, ~~subject to review by the joint standing committee having jurisdiction over economic development matters and confirmation by the Legislature.~~ A majority of the directors must be from the private sector, which includes all organizations outside State Government and Federal Government. The directors must be appointed from the member organizations or must be involved in a related business field or possess

experience or familiarity with education, training, technical assistance or international commerce. The board shall elect a chair from its membership.

The board of directors shall:

- A. Establish membership criteria and a dues structure;
- B. Establish a fee structure associated with participation in partnership contracts;
- C. Establish dues, fees and limited services available to nonmembers; and
- D. Develop the work plan and implementation schedule for the partnership's activities.

Sec. 2. 5 MRSA §13122-C, as enacted by PL 1993, c. 410, Pt. E, §11, is amended to read:

§13122-C. Board of directors

The foundation is governed and all of its powers exercised by a board of directors, which must consist of a minimum of 12 directors from the private sector, a maximum of 10 directors from the public and educational sectors and one director from labor. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint 2 members from the joint standing committee of the Legislature having jurisdiction over economic development matters to serve as ex officio members. Directors from the public sector must be department commissioners or hold equivalent positions and directors from the educational sector must be presidents or vice-presidents or hold equivalent positions. The Governor shall appoint all directors ~~subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and to confirmation by the Legislature.~~

Sec. 3. 10 MRSA §373, sub-§1, as amended by PL 1995, c. 322, §3, is further amended to read:

1. Establishment; membership. There is established the Adaptive Equipment Loan Program Fund Board that consists of 9 members as follows: The Commissioner of 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 of the Legislature having jurisdiction over housing and economic development matters, and confirmed by the Legislature.~~ The board shall annually elect a chair from among its members.

Sec. 4. 10 MRSA §1016, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. F, §1, is amended by amending the first paragraph to read:

1. Membership of board. The Maine Education Assistance Board, as established in Title 5, section 12004-I, subsection 18-A, consists of 7 voting members. One member is the Commissioner of Education or the commissioner's designee, who must be a person in a major policy influencing position. The Governor shall appoint 6 members, ~~subject to review by the joint standing committee of the Legislature having jurisdiction over educational matters and subject to confirmation by the Legislature.~~ The gubernatorial appointees consist of the following.

Sec. 5. 19 MRSA §770-B, sub-§1, ¶A, as enacted by PL 1989, c. 862, §22, is amended to read:

A. The Governor shall name the chair from among the following appointed members:

- (1) Two members who are representatives of the statewide coalition of family crisis services;
- (2) Two members who are representatives of the family counseling profession, one of whom has experience counseling abusers;
- (3) One member who is a representative of the Maine Commission for Women victims of domestic violence;
- (4) Two members who are attorneys with experience in domestic relations cases, one of whom has experience representing victims of domestic abuse;
- (5) One person who was a victim of domestic abuse and used the court system;
- (6) One member who is a district attorney or assistant district attorney;
- (7) One member who is chief of a municipal police department;
- (8) One member who is a county sheriff; and
- (9) The Commissioner of Public Safety or the commissioner's designee.

Sec. 6. 20-A MRSA §11415, sub-§1, as enacted by PL 1987, c. 807, §3, is amended to read:

1. Composition. There ~~shall be~~ are 7 voting members of the authority, 5 of whom ~~shall must~~ be appointed by the Governor, ~~subject to review by the joint standing committee of the Legislature having jurisdiction over education and confirmation by the Legislature.~~

Sec. 7. 27 MRSA §553, sub-§1, as enacted by PL 1989, c. 700, Pt. B, §42, is amended to read:

1. Appointment of chair. The Governor shall appoint the chair of the Maine State Cultural Affairs Council from among the members of the Maine Library Commission, the Maine Historic Preservation Commission, the Maine Arts Commission or the Maine State Museum Commission, provided that the appointed chair is not from the same commission as the previous chair. ~~The appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government matters and confirmation by the Legislature.~~

See title page for effective date.

CHAPTER 520

S.P. 611 - L.D. 1615

An Act to Amend the Piscataquis County Budget Process

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

Sec. 1. 30-A MRSA §821, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§821. Purpose

The purpose of this article is to establish in Piscataquis County a method of appropriating money for county expenditures, including expenditures for municipal services in the unorganized territory, according to a budget, which ~~shall first must~~ be reviewed by a budget committee ~~and shall then be approved by the Legislature~~. This article amends the statutory method in sections 701 and 702 by creating a committee with authority to review the budget and make recommendations to the county commissioners. ~~The Legislature has authority to approve and amend the budget. The county commissioners have the authority to approve the budget.~~ This article applies only to Piscataquis County.

Sec. 2. 30-A MRSA §825, sub-§§3, 6 and 7, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are repealed.

Sec. 3. 30-A MRSA §825, sub-§8, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

8. Assessment of taxes. The budget ~~as approved by the Legislature~~ is the final authorization for the assessment of county taxes. The budget ~~shall must~~ be sent to the county commissioners and the county tax authorized ~~shall must~~ be apportioned and collected in accordance with section 706. The budget for the

unorganized territories ~~shall must~~ be sent to the State as provided by section 7503.

Sec. 4. 30-A MRSA §826, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§826. Budget amendments

The approved budget shall govern the expenditures of the county during the fiscal year. No expenses may be incurred in excess of those shown in the approved budget, but the budget may be from time to time revised by the preparation of a proposed amended budget by the county commissioners. This proposed amended budget ~~shall must~~ be submitted to the county budget committee for review. Any recommendations by this committee must be submitted within 10 calendar days. ~~After receiving the recommendation of the budget committee, the county commissioners shall forward the proposed revised budget to the legislative delegation for approval. The delegation has 10 calendar days to render a decision on the proposed revision. Failure of the delegation to render a decision within the specified time is considered an approval of the revision. If the delegation disapproves of the revision, the procedure of section 825, subsection 6, shall be followed. The county commissioners shall submit the proposed revised budget to the Legislature for approval, disapproval or amendment. If approved, the Legislature shall transmit a report of approval of a revised budget to the State Auditor within 15 days of that approval. The amended budget takes effect when approved by the county commissioners. A report of the approval of an amended budget must be transmitted by the county commissioners to the State Auditor within 15 days of that approval.~~

See title page for effective date.

CHAPTER 521

H.P. 1206 - L.D. 1656

An Act to Provide for Confidential Treatment of State and Federal Regulatory Information in the Application Process for Financial Institutions

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

Sec. 1. 9-B MRSA §252, sub-§3-A is enacted to read:

3-A. Confidential treatment of other state and federal regulatory information. Any records or information in the possession of any state or federal

agency directly or indirectly involved in the regulation of financial institutions or financial institution holding companies that is recognized under state or federal law as confidential remains confidential if delivered or disclosed to the superintendent or a bureau employee in the course of a decision-making proceeding under this chapter. The superintendent may rely upon any records or information considered confidential pursuant to this subsection as the basis for a decision on an application if these records or information is disclosed to the applicant and any interested party to the proceeding.

See title page for effective date.

CHAPTER 522

H.P. 1207 - L.D. 1657

An Act to Repeal an Insurance Law Relating to Motor Vehicle Damage Appraisal

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

Sec. 1. 24-A MRSA §2164-B, as enacted by PL 1979, c. 171, is repealed.

See title page for effective date.

CHAPTER 523

H.P. 477 - L.D. 658

An Act Concerning Real Estate Trusts

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

Sec. 1. 33 MRSA §851-A is enacted to read:

§851-A. Conveyances to or from trusts without naming trustee

1. Conveyance to a trust. In any conveyance of real property or any interest in real property in this State, if the grantee or one or more of the grantees is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantee, then the conveyance is deemed to have been made to all of the trustees of the trust in their capacity as trustees of the trust, as though they had been named as grantees instead of the trust.

2. Conveyance from a trust. In any conveyance of real property or any interest in real property in

this State, if the grantor or one or more of the grantors is named as a trust, whether the trust is created under the laws of this State or of any other jurisdiction, and no trustee of that trust is named as a grantor, then the conveyance is deemed to have been made by all of the trustees of the trust who signed the instrument of conveyance as trustees of the trust, as though they had been named as grantors instead of the trust.

3. Preservation of claim. Any person who claims title to any real property or any interest in real property in this State by virtue of the failure of an instrument of conveyance delivered before the effective date of this section to name as grantor or as grantee any trustee of a trust may preserve that claim by recording a notice, within 2 years from the effective date of this section, in the registry of deeds where the instrument of conveyance is recorded. In order for the notice to be effective, it must contain the name and mailing address of the claimant, the names of the parties to the instrument of conveyance that is claimed to be defective, the book and page numbers where the instrument of conveyance is recorded and a statement of the purported defect on which the claim is based. The notice described in this subsection may be presented for recording by the claimant or by any other person acting on behalf of a claimant who is under a disability or is unable to assert a claim on the claimant's own behalf, but a disability or lack of knowledge of any kind does not suspend or extend the period for the recording of the notice.

4. Register's duties. The register of deeds shall enter upon the margin of the recorded instrument, described in a notice recorded as provided in subsection 3, the book and page numbers where the notice is recorded.

5. Application. This section does not apply to any trust that, as determined by the laws of its situs, is an entity capable of holding and conveying title in its own name.

6. Construction. Nothing contained in this section may be construed to recognize trusts created under the laws of this State as entities capable of holding or conveying title to real property in their own names. This section applies to conveyances made before, on or after the effective date of this section, but nothing contained in this section may be construed to suggest or require that any instrument delivered before the effective date of this section is invalid. Nothing contained in this section may be construed to extend the period for the commencement of an action or for the performance of any other required act under any statute of limitations.

See title page for effective date.

CHAPTER 524**S.P. 341 - L.D. 946****An Act Concerning Notification to
Maine Workers and Contractors**

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

Sec. 1. 5 MRSA §1743-C is enacted to read:

**§1743-C. Information to bidders on public
improvement projects**

A public improvement project for the construction, altering, repairing, furnishing or equipping of a building or public works must meet the requirements of this section.

1. Information to potential bidders. The Bureau of General Services or the procuring agency shall ensure that the bidding documents provided to potential bidders state that information concerning the availability of state subcontractors and suppliers, including women-owned businesses, is available from the Bureau of General Services or the Department of Economic and Community Development. The statement must indicate that the use of subcontractors and suppliers and women-owned businesses in the State in the procurement of its goods and services is encouraged where possible.

2. Notice to businesses. The Bureau of General Services shall adopt policies to promote the participation by enterprises doing business in this State and residents of this State in procurement contracts where possible. Policies must include, but are not limited to, providing for the notification of enterprises doing business in this State of opportunities to participate as subcontractors and suppliers on procurement contracts in an amount estimated to be equal to or greater than \$100,000.

3. Notice to economic development organizations. The Bureau of General Services or the procuring state agency shall provide notice of all anticipated competitive contracting opportunities to an automated supplier matching service identified as appropriate by the Department of Economic and Community Development.

4. Annual education session. The Bureau of General Services shall sponsor an annual education session on procedures to procure contracts with the State. The Bureau of General Services shall notify business enterprises in this State who have demonstrated an interest in opportunities to participate as contractors, subcontractors or suppliers on procurement contracts of the time and place of this annual education session.

5. Annual report. On or before the first business day of July of each year, each state agency or department shall report to the Department of Economic and Community Development with information pertaining to the procurement contracts entered into in an amount equal to or greater than \$50,000 by that agency or department during the previous year. The information must include the subject matter and value of the contracts, designation of each contractor as a business enterprise of this State or a foreign business enterprise, the process used to select the contractors and the status of each contract.

6. Federal funds. The provisions in this section apply to contracts involving funds obtained from the Federal Government unless expressly prohibited by federal law or regulations adopted pursuant to those laws.

Sec. 2. 26 MRSA §1301, 2nd ¶ is enacted to read:

Any contract for public improvement that is awarded by the State or any department or agency of the State is subject to the competitive bidding process established under Title 5, chapter 155, subchapter I-A.

See title page for effective date.

CHAPTER 525**S.P. 615 - L.D. 1618****An Act to Reform the Standard of
Fiduciary Prudence**

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

Sec. 1. 18-A MRSA §3-703, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a) ~~A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described by section 7-302.~~ A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this Code, and as expeditiously and efficiently as is consistent with the best interests of the estate. ~~He~~ The personal representative shall use the authority conferred upon him the personal representative by this Code, the terms of the will, if any, and any order in proceedings to which he the personal representative is party for the best interests of successors to the estate. A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described in section 7-302, except as follows.

(1) A personal representative, in developing an investment strategy, shall take into account the expected duration of the period reasonably required to effect distribution of the estate's assets.

(2) A personal representative may make distribution of an estate's assets in cash or in kind, in accordance with the devisees' best interests, and is not required either to liquidate the estate's assets or to preserve them for distribution.

(3) If any portion of an estate will pass to a devisee to be held for long-term investment purposes, the personal representative may, but need not, rely on the investment advice of the individual or institution that is the devisee of that portion of the estate in determining the appropriate investment plan for that portion. In the event of any such reliance, the personal representative is not liable for the investment performance of the portion of an estate invested in accordance with advice received from the devisee or the devisee's authorized agent.

Sec. 2. 18-A MRSA §7-302, as corrected by RR 1993, c. 1, §41, is repealed and the following enacted its place:

§7-302. Trustee's standard of care and performance; fiduciary investments authorized

(a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this section.

The prudent investor rule may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

(b) A trustee shall apply the following requirements in complying with the prudent investor rule.

(1) A trustee shall invest and manage trust assets, as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

(2) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(3) Among circumstances that a trustee shall consider in investing and managing trust assets

are all of the following that are relevant to the trust or its beneficiaries:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property and real property;

(v) The expected total return from income and the appreciation of capital;

(vi) Other resources of the beneficiaries, to the extent the other resources are known to the trustee;

(vii) Needs for liquidity, regularity of income and preservation or appreciation of capital; and

(viii) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(4) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(5) A trustee may invest in any kind of property or type of investment consistent with the standards of this section.

(6) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those skills or that expertise.

(c) A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

(d) Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements and other circumstances of the trust, and with the requirements of this section.

(e) A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

(f) If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

(g) In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

(h) Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

(i) In delegating investment management functions:

(1) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(iii) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation;

(2) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation;

(3) A trustee who complies with the requirements of paragraph (1) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated; and

(4) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

(j) The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this section: "investments permissible by law for investment of trust funds"; "legal investments"; "authorized investments"; "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in

regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital"; "prudent man rule"; "prudent trustee rule"; "prudent person rule"; or "prudent investor rule."

(k) This section must be applied and construed to effectuate its general purposes to make uniform the law with respect to the subject of the Uniform Prudent Investor Act among the states enacting it.

(l) This section may be cited as the "Maine Uniform Prudent Investor Act."

Sec. 3. Application. This Act applies to estates, trusts and other fiduciary relationships existing on and created after its effective date. As applied to relationships existing on its effective date, this Act governs only decisions or actions occurring after that date.

Sec. 4. Effective date. This Act takes effect January 1, 1997.

Effective January 1, 1997.

CHAPTER 526

S.P. 627 - L.D. 1634

An Act to Clarify Professional Liability

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

Sec. 1. 13 MRSA §708-A, sub-§3, ¶B, as enacted by PL 1995, c. 141, §2, is amended to read:

~~B. Supervised or~~ Directly supervised and 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 527

S.P. 634 - L.D. 1642

An Act to Extend Waivers of Certain Provisions of the Education Laws

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

Sec. 1. 20-A MRSA §4502, sub-§5, ¶B, as amended by PL 1991, c. 622, Pt. X, §2, is further amended to read:

B. Staffing, including student-teacher ratios, except that the approval rules in effect for the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997 must permit maximum student-teacher ratios of 25:1 school-wide for kindergarten to grade 8 and maximum student-teacher ratios of 30:1 school-wide for grades 9 to 12;

Sec. 2. 20-A MRSA §4502, sub-§5, ¶H, as amended by PL 1991, c. 9, Pt. II, §2, is further amended to read:

H. Student personnel services, including guidance and counseling and, notwithstanding any rules adopted by the department, comprehensive guidance plans to be approved by the commissioner for implementation in the ~~1995-96~~ 2000-01 school year;

Sec. 3. 20-A MRSA §4502, sub-§5-A, as enacted by PL 1991, c. 622, Pt. X, §3, is amended to read:

5-A. Application. The provisions of subsection 5, paragraph H do not apply to the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

Sec. 4. 20-A MRSA §4504, sub-§2, as amended by PL 1993, c. 435, §4 and affected by §14, is further amended to read:

2. Comprehensive reviews. The commissioner shall, on a one-year to 5-year cycle, make a comprehensive review of each public school to determine whether the school is in compliance with basic school approval standards. These reviews must, insofar as is practicable, be coordinated with reviews of other schools in the school unit, accreditation visits, special education reviews, federal program reviews and other required reviews or inspections, so as to reduce administrative burdens on school personnel. During the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997, the comprehensive reviews required by this subsection may include site visits.

Sec. 5. 20-A MRSA §4517, as enacted by PL 1991, c. 622, Pt. X, §5, is amended to read:

§4517. Waiver of requirements

The provisions of this subchapter do not apply to the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

Sec. 6. 20-A MRSA §8104, sub-§1, as amended by PL 1991, c. 622, Pt. X, §6, is further amended to read:

1. Establishment. Each school administrative unit must, commencing with the 1987-88 school year, establish a plan for phasing in gifted and talented educational programs by ~~1995-96~~ 1998-99. ~~No~~ A school administrative unit or part of a school administrative unit is not required to comply with the provisions of its plan during the school years beginning in the fall of 1991, 1992, 1993, 1994 ~~and~~, 1995, 1996 and 1997.

See title page for effective date.

CHAPTER 528

H.P. 1233 - L.D. 1693

An Act to Enhance Fireworks Safety

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

Sec. 1. 8 MRSA §222, as enacted by PL 1985, c. 23, §2, is amended to read:

§222. Possession of fireworks

~~No~~ A person may not possess or have under ~~his~~ that person's control fireworks, except if that person is issued a permit pursuant to section 227.

Sec. 2. 8 MRSA §229, sub-§1, as enacted by PL 1985, c. 23, §2, is amended to read:

1. Criminal penalties. ~~Any~~ A person who violates section 222, ~~where~~ if the value of the fireworks possessed exceeds \$100, or section 224 or 225 ~~is guilty of~~ commits a Class E crime. A person who violates section 227 by failing to obtain a permit for display commits a Class D crime. Any person who violates section 227 by conducting the display in violation of the permit commits a Class E crime.

See title page for effective date.

CHAPTER 529

H.P. 1247 - L.D. 1709

An Act to Describe Property Posting under the Criminal Trespass and Trespass by Motor Vehicle Laws

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

Sec. 1. 17-A MRSA §402, sub-§1, ¶C, as amended by PL 1989, c. 793, is further amended to read:

C. Enters any place from which that person may lawfully be excluded and that is posted in ~~a manner prescribed by law~~ accordance with subsection 4 or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders;

Sec. 2. 17-A MRSA §402, sub-§4 is enacted to read:

4. For the purposes of subsection 1, paragraph C, property is posted if it is marked with signs or paint in compliance with this subsection. Any posted sign or paint marking actually seen by an intruder is presumed to be posted in a manner reasonably likely to come to the attention of intruders.

A. Signs must indicate that access is prohibited, that access is prohibited without permission of the landowner or the landowner's agent, or that access for a particular purpose is prohibited.

B. Paint markings mean that access is prohibited without permission of the landowner or the landowner's agent. Paint markings must consist of 2 painted horizontal lines per tree, post or other object.

(1) Each line must be a minimum of 2 inches high and at least as long as the width of the object, but need not be more than 8 inches long.

(2) Lines must be painted on the side of the tree, post or other object that is visible to a person approaching the restricted property and must be painted within an area 3 feet to 6 feet above ground level.

(3) The paint must be silver or aluminum colored.

C. Signs or paint must mark the property at intervals no greater than 100 feet and at all vehicular access entries from a public road.

D. Signs or paint markings are required only on the portion of the property where access is prohibited or limited. Signs or paint posted in accordance with this section have no effect on boundaries of property and do not constitute claims of possession or adverse use in accordance with state law.

E. A person commits criminal mischief and is subject to prosecution under section 806 if that person, without permission of the owner or owner's agent:

(1) Knowingly posts the property of another with a sign or paint mark indicating

that access is prohibited, that access is prohibited without permission or that access for a particular purpose is prohibited; or

(2) Removes, mutilates, defaces or destroys a sign or paint mark placed for purposes of this section.

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders.

Sec. 3. 17-A MRSA §404, sub-§1, as enacted by PL 1975, c. 499, §1, is amended to read:

1. A person is guilty of trespass by motor vehicle if, knowing that ~~he~~ that person has no right to do so, ~~he~~ that person intentionally or knowingly permits a motor vehicle belonging to ~~him~~ that person or subject to ~~his~~ that person's control to enter or remain in or on:

A. The residential property of another; ~~or~~

B. The nonresidential property of another for a continuous period in excess of 24 hours; or

C. The nonresidential property of another that is:

(1) Posted in accordance with section 402, subsection 4;

(2) Posted to prohibit access by motor vehicles; or

(3) Posted in a manner reasonably likely to come to the attention of intruders.

For purposes of this paragraph, property is posted to prohibit access by motor vehicles if the property owner or the owner's agent has posted the property boundaries at points where they are crossed by roads or trails with signs indicating that motor vehicle access is prohibited or with paint markings that comply with section 402, subsection 4, paragraph B.

See title page for effective date.

CHAPTER 530

S.P. 655 - L.D. 1715

An Act to Create a Scallop Diving Tender License

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

Sec. 1. 12 MRSA §6535, sub-§§1 and 2, as enacted by PL 1995, c. 392, §2, are amended to read:

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 engaged as a platform for the harvesting of sea urchins and scallops by hand 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 who harvest sea urchins and scallops by hand 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.

Sec. 2. 12 MRSA §6536 is enacted to read:

§6536. Scallop diving tender license

1. License required. It is unlawful for a person to operate a boat as a platform for the harvesting of scallops by hand, to act as a diving tender on a boat engaged as a platform for the harvesting of scallops by hand or to possess, ship, transport or sell scallops unless that person is licensed under this section, section 6535, section 6701 or section 6748.

2. Licensed activity. A person licensed under this section may tend divers who harvest scallops by hand and operate a boat as a platform for the harvesting of scallops by hand and may possess, ship, transport and sell scallops. A scallop diving tender license does not authorize the holder to harvest scallops.

3. Eligibility. A scallop diving tender license may be issued only to an individual and is a resident license.

4. Fee. The fee for a 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 to have a license issued under section 6701 is prima facie evidence of a violation of this section.

See title page for effective date.

CHAPTER 531

S.P. 657 - L.D. 1717

**An Act Allowing Towns to Form
Regional Shellfish Management
Committees**

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

Whereas, Maine's shellfish resource provides important economic and recreational benefits to the citizens of the State; and

Whereas, management of Maine's shellfish resource benefits from municipalities joining together to undertake programs over a wide area; and

Whereas, several Maine municipalities are in the process of joining in regional shellfish management efforts; 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 §6671, sub-§2, as amended by PL 1983, c. 838, §2, is further amended to read:

2. Municipal program and ordinance. Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance regulating the possession of shellfish in any area of the municipality as provided by this section. A municipal shellfish management committee comprised of residents of that municipality may be established to administer a municipal program.

Sec. 2. 12 MRSA §6671, sub-§3-A, ¶F, as enacted by PL 1989, c. 257, §§4 and 5, is amended to read:

F. When 2 or more municipalities have entered into ~~an agreement with one another for joint or cooperative action under this subsection~~ a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities ~~shall~~ must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license ~~shall~~ must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses ~~shall~~ are not be required.

Sec. 3. 12 MRSA §6671, sub-§7, as enacted by PL 1977, c. 661, §5, is amended to read:

7. Joint programs; reciprocal privileges. Municipalities may enter into ~~joint conservation~~ regional shellfish management agreements with other municipalities and adopt ~~joint~~ regional shellfish management programs. The agreements, and the programs and ordinances adopted under them, ~~shall be~~ are subject to the same requirements as municipal programs and ordinances. Resident privileges of one municipality in a ~~joint~~ regional shellfish management agreement may be extended to the residents of other municipalities in the agreement. Notwithstanding subsection 2, a regional shellfish management committee comprised of at least one resident from each municipality named in the regional agreement may be established to administer a regional program.

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

Effective March 12, 1996.

CHAPTER 532

S.P. 659 - L.D. 1719

An Act to Correct Omissions in the Productivity Realization Task Force Legislation Relating to the State Soil and Water Conservation Commission and the Animal Welfare Board

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

Sec. 1. 5 MRSA §12004-G, sub-§30, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 5 MRSA §12004-I, sub-§2-B, as enacted by PL 1991, c. 779, §2, is repealed.

Sec. 3. 5 MRSA §12004-I, sub-§68-A is enacted to read:

68-A.	<u>State</u>	<u>Expenses</u>	<u>12 MRSA</u>
<u>Natural</u>	<u>Conservation</u>	<u>Only</u>	<u>§51-A</u>
<u>Resources</u>	<u>District</u>		
	<u>Advisory</u>		
	<u>Council</u>		

Sec. 4. 12 MRSA §3, sub-§1, as amended by PL 1969, c. 477, §1, is repealed.

Sec. 5. 12 MRSA §3, sub-§1-A is enacted to read:

1-A. Department. "Department" means the Department of Agriculture, Food and Rural Resources.

Sec. 6. 12 MRSA c. 1, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

SOIL AND WATER CONSERVATION

Sec. 7. 12 MRSA §51, as amended by PL 1991, c. 837, Pt. A, §28, is repealed.

Sec. 8. 12 MRSA §51-A is enacted to read:

§51-A. Advisory council established

The State Conservation District Advisory Council, as established by Title 5, section 12004-I, subsection 68-A, advises the commissioner on matters affecting the operations and responsibilities of soil and water conservation districts. The State Conservation District Advisory Council consists of one representative from each of the soil and water conservation districts. The president and vice-president of the Maine Association of Conservation Districts and the State Conservationist of the United States Department of Agriculture, Natural Resources Conservation Service shall serve as ex officio, nonvoting members. The president and vice-president of the Maine Association of Conservation Districts shall also serve as chair and vice-chair. The advisory council shall:

1. Formulation of budget. Consult with the commissioner regarding the formulation of that part of the department's budget that pertains to the operations of the soil and water conservation districts;

2. Procedures for election of supervisors. Advise the Department of Agriculture, Food and Rural Resources on the appointment of soil and water conservation district supervisors and on procedures for the election of supervisors;

3. Consult in areas of expertise. Regularly consult with the Department of Agriculture, Food and Rural Resources on matters in which the soil and water conservation districts have individual or collective expertise, including agriculture, forestry, water quality, economic and community development and the protection of landowner rights;

4. Distribution of grant money. Advise the department on procedures for the distribution of federal, state or private grant money that passes through the department and is intended for the work of soil and water conservation districts; and

5. Conservation districts. Advise the department regarding the formation or discontinuance of soil and water conservation districts.

Sec. 9. 12 MRSA §51-B is enacted to read:

§51-B. Assistance from department

The department shall assist the advisory council and individual soil and water conservation districts to further constructive working relationships with other natural resource agencies of State Government.

Sec. 10. 12 MRSA §52, as amended by PL 1991, c. 837, Pt. A, §29, is repealed.

Sec. 11. 12 MRSA §53, as amended by PL 1991, c. 837, Pt. A, §30, is repealed.

Sec. 12. 12 MRSA §54, sub-§4, as amended by PL 1969, c. 477, §1, is further amended to read:

4. United States and state agencies. To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts, and in carrying out the functions of the commission under this chapter; and to accept grants, services and materials, and to borrow money from the United States or from any corporation or agency of the United States or from the State of Maine or any of its subdivisions or from any other source, but in no event shall the faith and credit of the State of Maine or any county or other political subdivision thereof be pledged by the commission for the repayment of any indebtedness from any source;

Sec. 13. 12 MRSA §54, sub-§8, as amended by PL 1967, c. 494, §11, is further amended to read:

8. Options; purchases. ~~To~~ In addition to any powers conferred by Title 7, section 19, to obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property or rights or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease, or otherwise dispose of any of its real or personal property or interests therein, in furtherance of the purpose and provisions of this chapter, including the conveyance, with or without consideration, of lands or interests therein to soil and water conservation districts for use in carrying out their authorized purposes;

Sec. 14. 12 MRSA §54-A is enacted to read:

§54-A. Budget

That part of the department's budget that pertains to the operations of the soil and water conservation

districts must be separately identified as a major budget area within the department's budget.

Sec. 15. 12 MRSA §102, first ¶, as amended by PL 1969, c. 477, §1, is further amended to read:

The governing body of the district ~~shall consist~~ consists of 5 supervisors, elected or appointed. The 2 supervisors appointed by the ~~commission shall~~ department must be persons who are by training and experience qualified to perform the services ~~which~~ that will be required of them in the performance of their duties. In appointing supervisors, the ~~state commission department~~ department shall take into consideration ~~the recommendations of the representative of the state commission from the area in which the district is located, as well as representation of the various interests of the district such as agricultural, woodland, wildlife, recreation, community and area development.~~

Sec. 16. Transition provisions; State Soil and Water Conservation Commission.

1. Successor in powers. The Department of Agriculture, Food and Rural Resources is the successor in every way to the powers, duties and functions of the State Soil and Water Conservation Commission set forth in the Maine Revised Statutes, Title 12, chapters 1 and 3.

2. Rules. All existing rules and procedures in effect, in operation or adopted by the commission relating to the exercise of its powers, duties and functions under Title 12, chapters 1 and 3 are declared to be in effect and continue to be in effect until rescinded, revised or amended by the Department of Agriculture, Food and Rural Resources.

3. Obligations. All existing contracts, agreements and compacts of the commission relating to Title 12, chapters 1 and 3 continue in effect and all obligations and rights of the commission become the obligations and rights of the Department of Agriculture, Food and Rural Resources.

4. Property. All records, property and equipment in the possession of the commission that pertain to or were allocated or assigned for the commission's use in carrying out the responsibilities under Title 12, chapters 1 and 3 become the records, property and equipment of the Department of Agriculture, Food and Rural Resources.

Sec. 17. Maine Revised Statutes amended; Soil and Water Conservation Commission; revision clause. Wherever in the Maine Revised Statutes, Title 12, chapters 1 and 3, the words "Soil and Water Conservation Commission," "state commission" or "commission" appear or reference is made to those words, they are amended to read and mean "Department of Agriculture, Food and

Rural Resources," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 533

H.P. 1256 - L.D. 1728

An Act to Enhance Amusement Ride Safety

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

Sec. 1. 8 MRSA §502, 2nd ¶, as amended by PL 1991, c. 464, §3, is further amended to read:

~~No~~ A traveling circus, traveling amusement show or amusement device may not operate or exhibit any parade, show or entertainment in this State without first paying a license fee for each calendar year. Application for the license must be made to the Commissioner of Public Safety and contain the name of the person or corporation using or operating the traveling circus, traveling amusement show or amusement device, and a statement of proposed territory within the limits of the State, and names of the cities and towns in which the traveling circus, traveling amusement show or amusement device is to operate or exhibit. ~~No~~ A traveling circus or traveling amusement show or amusement device may not exhibit any parade, show or entertainment in this State without first furnishing the Commissioner of Public Safety, in an amount to be determined by the commissioner, a certificate of public liability insurance issued by an authorized insurer or approved surplus lines insurer pursuant to Title 24-A or any risk retention group registered in any state pursuant to 15 United States Code, Chapter 65 or through a purchasing group registered in any state pursuant to 15 United States Code, Chapter 65. Upon receipt of the application, accompanied by a certificate of public liability insurance and upon payment of the required fee, a license is issued. For amusement shows, carnivals, thrill shows, ice shows, rodeos or similar types of performances ~~which that~~ are held indoors or outdoors the fee is ~~\$250~~ \$300. For circuses ~~which that~~ are held outdoors or under tents or similar temporary cover or enclosure the fee is \$500. For circuses held indoors in an auditorium, arena, civic center or similar type building the fee is ~~\$250~~ \$300. For circuses produced in their entirety by a nonprofit, charitable organization a license is required but no fee is charged. The amusement device license fee is ~~\$37.50~~ \$50 per amusement device. A traveling amusement show, having amusement devices and having secured a traveling amusement show license, must pay an

additional amusement device license fee for each amusement device over 5 rides. "Amusement device" means a device by which a person is carried or conveyed, where control by the rider over the speed or direction of travel is incomplete or is allowed to move on, around or over a fixed course within a defined area intended to thrill, excite or amuse, including, but not limited to, bungee jumping and water slides, regardless of whether a fee to operate is required. It does not include a vehicle or device; the operation of which is regulated as to safety by any other provision of law, except a municipal ordinance under Title 30-A, section 3001 or any coin-operated kiddie amusement device on a nonmoving base ~~which that~~ is designed to accommodate one child.

Sec. 2. 8 MRSA §563, as repealed and replaced by PL 1983, c. 210, is amended to read:

§563. Fees

The fee for the inspection of all structures and the annual license for motor vehicle raceways ~~shall be \$250~~ is \$300. The fee permits the holder of any motor vehicle raceway license to provide entertainment events such as auto thrill shows, motorcycle acts and other spectacular stunts at the licensed raceway. These events ~~shall must~~ be included in the certificate of public liability required pursuant to section 562. These fees ~~shall must~~ accompany the application and ~~shall be~~ credited to the Department of Public Safety to defray the expenses of the division. Any balance of these fees ~~shall does~~ not lapse but ~~shall be~~ is carried forward as a continuing account to be expended for the same purposes in the following years.

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

1996-97

PUBLIC SAFETY, DEPARTMENT OF

State Fire Marshal's Office

All Other	\$5,250
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Provides funds for additional general operating costs associated with licensing and inspections.

See title page for effective date.

CHAPTER 534**H.P. 1263 - L.D. 1738****An Act to Require Prisoners to Pay
Their Fair Share of Victim
Restitution****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 17-A MRSA §1330, sub-§2, as repealed and replaced by PL 1983, c. 793, §2, is amended to read:

2. Payment of restitution from other sources.

Any prisoner, other than one addressed by subsection 1, who is able to generate ~~income~~ money, from whatever source, shall pay 25% of that ~~income~~ money to any victim if the court has ordered that restitution be paid. The correctional facility in which the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's ~~income~~ money ordered as restitution. If the victim or victims ordered by the court to receive restitution have died or ~~cannot~~ can not be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

See title page for effective date.

CHAPTER 535**H.P. 1338 - L.D. 1832****An Act to Amend the Atlantic
Salmon Authority**

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

Whereas, it is necessary for the Governor to appoint the members of the Atlantic Salmon Board 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. 12 MRSA §9901, sub-§2, as enacted by PL 1995, c. 406, §12, is repealed and the following enacted in its place:

2. Members; appointment composition; term.

The authority is governed by the Atlantic Salmon Board, referred to in this chapter as the "board." The board consists of 9 members including the current Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife. The Governor shall appoint the remaining 7 members, subject to review by the joint standing committee of the Legislature having jurisdiction over fisheries and wildlife matters and to confirmation by the Senate. The Governor shall select the appointees to adequately represent the various aspects of Atlantic salmon issues over which the board has jurisdiction. The Governor may appoint the 4 river drainage representatives from a list of names submitted by salmon clubs and may appoint the Native American representatives from a list of names submitted by the Penobscot Nation and the Passamaquoddy Tribe. In addition to the Commissioner of Marine Resources and the Commissioner of Inland Fisheries and Wildlife, the board consists of the following appointed members:

A. One member who resides within the land area comprising the Penobscot River or Ducktrap River drainages;

B. One member who resides within the land area comprising the Saco River or Sheepscot River drainages;

C. One member who resides in the Aroostook River drainage area;

D. One member who resides within those land areas that comprise the drainage for the St. Croix, East Machias, Machias, Narraguagus, Pleasant or Dennys rivers;

E. One member of the Passamaquoddy Tribe;

F. One member of the Penobscot Nation; and

G. One member at-large representing the public from a geographical area not specified in this subsection.

Of the initial appointees, 2 members are appointed for one-year terms, 2 members are appointed for 2-year terms and 3 members are appointed for 3-year terms. Thereafter, members are appointed for 3-year terms. A vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive 3-year terms. Appointed members serve until their successors are appointed.

Sec. 2. 12 MRSA §9902, first ¶, as enacted by PL 1995, c. 406, §12, is amended to read:

~~Notwithstanding any other provision of Title 12, the~~ The authority has the sole authority and responsi-

bility to manage the Atlantic salmon fishery in the State, including the sole authority to introduce Atlantic salmon into Maine inland waters, other than commercial aquaculture facilities and associated activities. This sole authority does not take effect for the inland waters of the Sheepscot, Narraguagus, Pleasant, Machias, East Machias and Dennys rivers until July 1, 1997. The authority has the sole authority to 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:

Sec. 3. 12 MRSA §9902, sub-§4, as enacted by PL 1995, c. 406, §12, is amended to read:

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. The Department of Marine Resources and the Department of Inland Fisheries and Wildlife retain exclusive jurisdiction over rules pertaining to species other than Atlantic salmon that are designed to promote the conservation and propagation of Atlantic salmon. The departments shall consult with the Atlantic Salmon Authority in adopting such rules;

Sec. 4. 12 MRSA §9904, sub-§§4 and 5, as enacted by PL 1995, c. 406, §12, are repealed.

Sec. 5. PL 1995, c. 406, §19, sub-§7 is amended to read:

7. Not later than ~~January~~ December 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.

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

Effective March 13, 1996.

CHAPTER 536

H.P. 137 - L.D. 185

An Act Regarding the Harvesting of Eels and Elvers

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

Whereas, baby eels, or elvers, migrate from coastal waters to inland waters and a significant fishery for elvers has developed in the coastal rivers, brooks and streams of the State; and

Whereas, adult eels that mature in the State's inland waters play an important role in the propagation of the species; and

Whereas, conservation of the eel and elver resources is important for ecological and economic reasons; 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. 12 MRSA §6001, sub-§§13-C to 13-G are enacted to read:

13-C. Dip net. "Dip net" means a device consisting of a rigid frame filled with netting, firmly attached to a rigid handle and manually operated by a single person.

13-D. Eel. "Eel" means a member of the species Anguilla rostrata in that stage of its life cycle when it is 6 inches or more in length.

13-E. Eel pot. "Eel pot" means a cylindrical or rectangular trap with funnels that is baited and used to harvest eels. An eel pot is 50 cubic feet or less in total volume and utilizes wire or slatting no smaller than 1/2 inch square measure.

13-F. Elver. "Elver" means a member of the species Anguilla rostrata in that stage of its life cycle when it is less than 6 inches in length.

13-G. Elver fyke net. "Elver fyke net" means a fyke net that is 30 feet or less in length from cod end to shore-side wing tip and that is fitted with netting that measures 1/8 inch mesh square measure or less.

Sec. A-2. 12 MRSA §6001, sub-§§17-C and 20-A are enacted to read:

17-C. Fyke net. "Fyke net" means a funnel-shaped net designed to intercept moving marine organisms and retain marine organisms in a confined space.

20-A. Hoop net. "Hoop net" means a stationary cylindrical net fitted with mesh measuring 1/2 inch or greater stretch measure, that is placed at the bottom of a body of water and has a diameter of 6 feet or less as measured at its widest point and has a length of 18 feet or less as measured from the cod end to the hoop that forms the mouth of the net. "Hoop net" includes wings or leads attached to the mouth of the hoop net.

Sec. A-3. 12 MRSA §6001, sub-§29, as enacted by PL 1977, c. 661, §5, is amended to read:

29. Marine species. "Marine species" means all marine animals except lobster, shellfish and marine worms and elvers.

Sec. A-4. 12 MRSA §6001, sub-§40-A is enacted to read:

40-A. Sheldon eel trap. "Sheldon eel trap" means a box trap with a netted wing used to intercept and direct elvers into the trap.

Sec. A-5. 12 MRSA §6404-A is enacted to read:

§6404-A. Suspension based on conviction of molesting elver gear

The commissioner shall suspend the elver fishing license of any license holder convicted in court of violating section 6575-D. This suspension must be for one year from the date of conviction.

Sec. A-6. 12 MRSA §6501, sub-§6, as amended by PL 1977, c. 661, §5, is further amended to read:

6. Definition. For the purposes of this chapter, "fish" ~~shall mean~~ means all marine finfish, squid and shrimp or other marine animals, except lobsters, crabs, shellfish, scallops or marine worms, elvers or eels.

Sec. A-7. 12 MRSA §6505, as enacted by PL 1995, c. 492, §4, is repealed.

Sec. A-8. 12 MRSA §§6505-A to 6505-D are enacted to read:

§6505-A. Elver fishing license

1. License required. It is unlawful for a person to fish for or take elvers or possess, ship, transport or

sell elvers that the person has taken unless the person is issued an elver fishing license under this section.

2. Eligibility. An elver fishing license may be issued only to an individual.

3. Limits on issuance. The department may not issue an elver fishing license after March 15th and before June 16th.

4. Fees. Fees for elver fishing licenses are:

A. For a person who is a resident, \$33; and

B. For a person who is a nonresident, \$334.

5. Gear listed on license. The license must identify the number and types of nets for which the license holder has paid fees pursuant to section 6505-B.

§6505-B. Elver gear fees

1. Elver fyke net and Sheldon eel trap fee. It is unlawful for a person to submerge an elver fyke net or a Sheldon eel trap in the coastal waters of the State to fish for or take elvers unless the net or trap owner pays annually the following fees:

A. One hundred dollars per net or trap for the use of a first or 2nd elver fyke net or Sheldon eel trap; and

B. Two hundred dollars per net or trap for the use of a 3rd, 4th or 5th elver fyke net or Sheldon eel trap.

2. Tags for elver fyke net and Sheldon eel trap. It is unlawful for a person to submerge an elver fyke net or Sheldon eel trap in the coastal waters of the State to fish for or take elvers unless a tag issued by the department is affixed to the net or trap. The department may issue a replacement tag when an owner issued a tag documents that a net or trap has been damaged or lost.

3. Dip net fee. It is unlawful for a person to utilize a dip net to fish for or take elvers without paying a fee of \$75 per dip net annually.

4. Payment with license. The fees required under subsections 1 and 3 must be paid upon application for an elver fishing license under section 6505-A.

5. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D.

§6505-C. Eel harvesting license

1. License required. It is unlawful for a person to fish for or take eels in the coastal waters of the State or possess, ship, transport or sell eels that the person

has taken in the coastal waters of the State without an eel harvesting license.

2. Exemptions. A person may fish for or take for personal use an eel in the coastal waters of the State by speargun, harpoon, trap or hook and line and may possess or transport that eel.

3. Eligibility. An eel harvesting license may only be issued to an individual.

4. Fees. The fee for an eel harvesting license is \$100.

5. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$33 must accrue to the General Fund for each license sold under this section.

§6505-D. Eel and Elver Management Fund

1. Fund established. The Eel and Elver Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund.

2. Permissible uses. The commissioner may use the fund in accordance with a plan required under subsection 3 to research and manage the State's eel and elver resources and to enforce the laws related to eels and elvers.

3. Plan required. Beginning in calendar year 1997, the commissioner shall by May 1st of each year present a plan for expenditures from the fund for the next fiscal year to the joint standing committee of the Legislature having jurisdiction over marine resource matters. When developing the plan, the commissioner shall consult with people who harvest eels and elvers, with dealers of eels and elvers and with the Commissioner of Inland Fisheries and Wildlife.

Sec. A-9. 12 MRSA c. 621, sub-c. II, art. 5 is enacted to read:

Article 5

Elver and Eel Limitations

§6575. Closed season; elver harvesting

1. Closed season. It is unlawful for a person to fish for or take elvers within the coastal waters of the State from June 16th to noon on March 15th of the following year.

2. Setting nets and traps. It is unlawful for a person to immerse or leave immersed a fyke net or a Sheldon eel trap in any river, stream or brook of the coastal waters of the State from February 15th to noon of March 15th.

3. Locating nets. It is unlawful between February 15th and noon of March 15th for a person to designate or claim by any means a location in which an elver fyke net or a Sheldon eel trap would be placed or set.

§6575-A. Closed period; elver harvesting

It is unlawful for a person to fish for or take elvers from noon Saturday to noon Sunday. A person may leave an elver fyke net or a Sheldon eel trap in the coastal waters of the State during the closed period if the net or trap is left in a condition that prevents the capture of elvers.

§6575-B. Method of elver fishing; limits on gear

1. Gear. It is unlawful for a person to fish for or take elvers by any method other than by dip net, elver fyke net or Sheldon eel trap.

2. Number of elver fyke nets and Sheldon eel traps. It is unlawful from noon of March 15th to midnight of June 15th for a person to immerse at any one time:

A. More than 5 elver fyke nets;

B. More than 5 Sheldon eel traps; or

C. Any combination of elver fyke nets and Sheldon eel traps that total more than 5 nets and traps.

3. Rebuttable presumption. It is a rebuttable presumption that an elver fyke net or a Sheldon eel trap immersed in any river, stream or brook of the coastal waters of the State from noon of March 15th to midnight of June 15th is immersed for the purpose of fishing for or taking elvers.

4. Prohibition on fishing from boats. It is unlawful for a person to set or tend an elver fyke net or a Sheldon eel trap from a boat or to fish for or take elvers from a boat. A person may transport an elver fyke net, a Sheldon eel trap or a dip net by boat.

5. Use of dip nets. It is unlawful for a person to use a dip net to fish for or take elvers while standing in the water of a river, stream or brook within the coastal waters of the State.

§6575-C. Closed areas; elver fishing

1. Dams with fishways. It is unlawful for a person to fish for or take elvers within 150 feet of any part of a dam with a fishway or within 150 feet of a fishway.

2. Alewife traps. It is unlawful for a person to fish for or take elvers within 50 feet of a licensed alewife trap.

3. Portion of rivers, streams and brooks. It is unlawful for a person to fish for or take elvers within the middle 1/3 of a river, stream or brook, as measured at mean high tide, within the coastal waters of the State.

4. Dip nets near elver fyke nets. It is unlawful for a person to fish for or take elvers with a dip net in the mouth of an elver fyke net. For the purposes of this subsection, "mouth of an elver fyke net" means that area within an elver fyke net that is net-side of a straight line that runs from one meshed wing tip of the net to the other meshed wing tip.

§6575-D. Molesting elver fishing gear

1. Prohibition. It is unlawful for any person other than a marine patrol officer or the license holder issued a tag for an elver fyke net or a Sheldon eel trap to utilize, transfer, alter, possess or in any manner handle the net or trap unless that person has been issued an elver fishing license under section 6505-A and:

A. Is in the presence of the license holder issued a tag for the net or trap and has the license holder's permission to tend the net or trap; or

B. Is issued written permission by a marine patrol officer to tend the net or trap of a license holder issued a tag. A marine patrol officer may issue a person written permission for the person to tend the license holder's net or trap if the license holder can not tend the net or trap because of a disability or personal or family medical condition.

2. Penalty. A violation of this section is a Class D crime, except that the court shall impose a minimum fine of \$500 for each violation.

§6575-E. Method of eel fishing

Except as provided in section 6505-C, subsection 2, it is unlawful for a person licensed under section 6505-C to fish for or take eels in the coastal waters of the State by any method other than eel pot or hoop net.

Sec. A-10. 12 MRSA §6864 is enacted to read:

§6864. Elver dealer's license

1. License required. It is unlawful for a person to buy, possess, ship, transport or sell elvers without an elver dealer's license.

2. License limited. An elver dealer's license authorizes the licensed activities at only one establishment or with only one vehicle.

3. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle.

4. Fee. The fee for an elver dealer's license is \$1,000 and the fee for each supplemental license is \$43.

5. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$217 accrues to the General Fund for each elver dealer's license sold under this section and \$43 accrues to the General Fund for each supplemental license sold under this section.

Sec. A-11. Allocation. The following funds are allocated from the Eel and Elver Management Fund to carry out the purposes of this Part.

	1995-96	1996-97
MARINE RESOURCES, DEPARTMENT OF		
Marine Sciences - Bureau of		
All Other	\$180,000	\$180,000
Allocates funds for the contracting of life history basic biology work and the contracting of catch effort monitoring.		
Marine Patrol - Bureau of		
Positions - Other Count	(6.0)	(6.0)
Personal Services	66,000	66,000
All Other	23,400	23,400
Capital Expenditures	45,000	
TOTAL	134,400	89,400
Allocates funds for 6 seasonal Marine Patrol Officer positions, limited overtime, operating costs and to purchase radios, night vision optical equipment and binoculars.		
DEPARTMENT OF MARINE RESOURCES		
TOTAL	\$314,400	\$269,400

Sec. A-12. Transition provisions; licenses. An eel fishing license issued for calendar year 1996 under the Maine Revised Statutes, Title 12, former section 6505 remains in effect until December 31, 1996. A person who holds an eel fishing license issued under Title 12, former section 6505 and fishes for or takes elvers is subject to Title 12, section 6404-A, the fees established under section 6505-B and all applicable sections of Title 12, chapter 621,

subchapter II, article 5, except that in calendar year 1996 a license holder shall pay by April 1, 1996 applicable fees for the use of elver fyke nets, Sheldon eel traps and dip nets and affix tags by April 1, 1996 to elver fyke nets and Sheldon eel traps used by the license holder when those nets and traps are used to fish for or take elvers. A person who holds an eel fishing license issued under Title 12, former section 6505 and fishes for or takes eels that are not for personal use is subject to Title 12, chapter 621, subchapter II, article 5.

Sec. A-13. Effective dates. Those sections of this Part that enact the Maine Revised Statutes, Title 12, sections 6575 and 6575-A take effect March 16, 1996. Those sections of this Part that amend Title 12, section 6001, subsection 29 and enact Title 12, section 6864 take effect April 15, 1996.

PART B

Sec. B-1. 12 MRSA §7001, sub-§§6-A to 6-C, 37-A and 39-A are enacted to read:

6-A. Eel. "Eel" means a member of the species Anguilla rostrata in that stage of its life cycle when it is 6 inches or more in length.

6-B. Eel pot. "Eel pot" means a cylindrical or rectangular trap with funnels that is baited and used to harvest eels. An eel pot is 50 cubic feet or less in total volume and utilizes wire or slatting no smaller than 1/2 inch square measure.

6-C. Elver. "Elver" means a member of the species Anguilla rostrata in that stage of its life cycle when it is less than 6 inches in length.

37-A. Trap net. "Trap net" means a funnel-shaped net designed to intercept and retain fish in a confined space.

39-A. Weir. "Weir" means a structure placed in the inland waters of a river, stream or brook that is designed to entrap fish and that exceeds more than 1/3 of the wetted width of the channel.

Sec. B-2. 12 MRSA §7153, as amended by PL 1995, c. 455, §11, is repealed and the following enacted in its place:

§7153. Alewife, eel, sucker and yellow perch permit

1. Issuance. The commissioner may issue permits to fish for or possess alewives, eels, suckers and yellow perch under rules that the commissioner establishes, if these permits do not interfere with rights granted under section 6131.

A. Eels may be harvested in inland waters using only eel pots or weirs.

B. Alewives, suckers and yellow perch may be harvested in inland waters using trap nets, dip nets or spears.

2. Fee. The minimum fee for an individual permit for alewives, suckers and yellow perch is \$42. Beginning in calendar year 1996, a crew permit may be sold for alewives, suckers and yellow perch for \$100, authorizing up to 3 persons to engage in the licensed activity. The annual fee for an eel pot or weir permit is \$100. An eel pot or eel weir license is not transferable.

3. Prohibitions. The following prohibitions apply to the harvesting of eels and elvers in inland waters.

A. It is unlawful for any person to fish for or take elvers from inland waters.

B. It is unlawful for any person other than the owner of a weir used to fish for or take eels in inland waters to tend that weir while the weir is immersed unless that person has in the person's possession written permission from the owner to tend the weir or is in the presence of the owner and has the owner's permission to tend the weir.

4. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$42 accrues to the General Fund for each eel pot or eel weir permit issued under this section. This subsection is repealed on January 1, 2001.

5. Five-year limited entry; inland eel weirs. The department may not issue an eel weir permit to a person unless that person possessed a valid eel weir permit for calendar year 1995. This subsection is repealed on January 1, 2001.

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

Effective March 14, 1996, unless otherwise indicated.

CHAPTER 537

H.P. 1188 - L.D. 1629

An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and Providing for Further Review of Rules

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

Sec. 1. 2 MRSA §8 is enacted to read:

§8. Land use mediation; obligation to participate

Agencies within the executive branch shall participate in mediation under Title 5, chapter 314, subchapter II, when requested to participate by the Court Mediation Service. This section is repealed October 1, 2001.

Sec. 2. 4 MRSA §18, sub-§6-B is enacted to read:

6-B. Land use mediation. The land use mediation program is a program within the Court Mediation Service.

A. The Director of the Court Mediation Service shall administer the land use mediation program established in Title 5, chapter 314, subchapter II.

B. A land use mediation fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for mediation services pursuant to Title 5, chapter 314, subchapter II must be deposited in the fund. The Administrative Office of the Courts shall use the resources in the fund to cover the costs of providing mediation services as required under Title 5, chapter 314, subchapter II.

This subsection is repealed October 1, 2001. Any balances remaining in the land use mediation fund must be transferred to a nonlapsing account within the Judicial Department to be used to defray mediation expenses.

Sec. 3. 5 MRSA c. 314 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 314

COORDINATION OF LAND USE AND NATURAL RESOURCE MANAGEMENT

SUBCHAPTER I

LAND AND WATER RESOURCES COUNCIL

Sec. 4. 5 MRSA §3331, sub-§5 is enacted to read:

5. Reporting on the land use mediation program. The council shall report by December 1, 1998 and December 1, 2000 to the Governor, the Administrative Office of the Courts, the Executive Director of the Legislative Council and the Director of the Court Mediation Service on the operation and

effectiveness of the land use mediation program established under subchapter II. The reports must list the number and type of mediation requests received, the number of mediation sessions conducted, the number of signed mediation agreements, a summary of the final disposition of mediation agreements, a narrative discussion of the effectiveness of the program as determined by the council, a summary of deposits and expenditures from the land use mediation fund created in Title 4, section 18, subsection 6-B and any proposals by the council with respect to the operation, improvement or continuation of the mediation program. This subsection is repealed October 1, 2001.

Sec. 5. 5 MRSA c. 314, sub-c. II is enacted to read:

SUBCHAPTER II

LAND USE MEDIATION PROGRAM

§3341. Land use mediation program

1. Program established. The land use mediation program is established to provide eligible private landowners with a prompt, independent, inexpensive and local forum for mediation of governmental land use actions as an alternative to court action.

2. Provision of mediation services; forms, filing and fees. The Court Mediation Service created in Title 4, section 18 shall provide mediation services under this subchapter. The Court Mediation Service shall:

A. Assign mediators under this subchapter who are knowledgeable in land use regulatory issues and environmental law;

B. Establish a simple and expedient application process. Not later than February 1st of each year, the Court Mediation Service shall send to the chair of the Land and Water Resources Council a copy of each completed application received and each agreement signed during the previous calendar year; and

C. Establish a fee for services in an amount not to exceed \$175 for every 4 hours of mediation services provided. In addition, the landowner is responsible for the costs of providing notice as required under subsection 7.

3. Application; eligibility. A landowner may apply for mediation under this subchapter if that landowner:

A. Has suffered significant harm as a result of a governmental action regulating land use;

B. Applies for mediation under subsection 4 within the time allowed under law or rules of the court for filing for judicial review of that governmental action;

C. Has:

(1) For mediation of municipal governmental land use action, sought and failed to obtain a permit, variance or special exception and has pursued all reasonable avenues of administrative appeal; or

(2) For mediation of state governmental land use action, sought and failed to obtain governmental approval for a land use of that landowner's land and has a right to judicial review under section 11001 either due to a final agency action or the failure or refusal of an agency to act; and

D. Submits to the Superior Court clerk all necessary fees at the time of application.

4. Submission of application for mediation. A landowner may apply for mediation under this subchapter by filing an application for mediation with the Superior Court clerk in the county in which the land that is the subject of the conflict is located. The Superior Court clerk shall forward the application to the Court Mediation Service.

5. Stay of filing period. Notwithstanding any other provision of law, the period of time allowed by law or by rules of the court for any person to file for judicial review of the governmental action for which mediation is requested under this subchapter is stayed for 30 days beyond the date the mediator files the report required under subsection 12 with the Superior Court clerk, but in no case longer than 120 days from the date the landowner files the application for mediation with the Superior Court clerk.

6. Purpose; conduct of mediation. The purpose of a mediation under this subchapter is to facilitate, within existing land use laws, ordinances and regulations, a mutually acceptable solution to a conflict between a landowner and a governmental entity regulating land use. The mediator, whenever possible and appropriate, shall conduct the mediation in the county in which the land that is the subject of the conflict is located. When mediating that solution, the mediator shall balance the need for public access to proceedings with the flexibility, discretion and private caucus techniques required for effective mediation.

7. Schedule; notice; participants. The mediator is responsible for scheduling all mediation sessions. The mediator shall provide a list of the names and addresses and a copy of the notice of the

mediation schedule to the Superior Court clerk, who shall mail the notices. The mediator shall include on the list persons identified in the following ways.

A. The landowner and the governmental entity shall provide to the mediator the names and addresses of the parties, intervenors and other persons who significantly participated in the underlying governmental land use action proceedings.

B. Any other person who believes that that person's participation in the mediation is necessary may file a request with the mediator to be included in the mediation.

C. The mediator shall determine if any other person's participation is necessary for effective mediation.

8. Parties to mediation. A mediator shall include in the mediation process any person the mediator determines is necessary for effective mediation, including persons representing municipal, county or state agencies and abutters, parties, intervenors or other persons significantly involved in the underlying governmental land use action. A mediator may exclude or limit a person's participation in mediation when the mediator determines that exclusion or limitation necessary for effective mediation. This subsection does not require a municipality to participate in mediation under this subchapter.

9. Sharing of costs. Participants in the mediation may share the cost of mediation after the initial 4 hours of mediation services have been provided.

10. Admissibility. The admissibility in court of conduct or statements made during mediation, including offers of settlement, is governed by the Maine Rules of Evidence, Rule 408(a) for matters subsequently heard in a state court and Federal Rules of Evidence, Rule 408 for matters subsequently heard in a federal court.

11. Agreements. A mediated agreement must be in writing. The landowner, the governmental entity and all other participants who agree must sign the agreement as participants and the mediator must sign as the mediator.

A. An agreement that requires any additional governmental action is not self-executing. If any additional governmental action is required, the landowner is responsible for initiating that action and providing any additional information reasonably required by the governmental entity to implement the agreement. The landowner must notify the governmental entity in writing within

30 days, after the mediator files the mediator's report under subsection 12, that the landowner will be taking action in accordance with the agreement.

B. Notwithstanding any procedural restriction that would otherwise prevent reconsideration of the governmental action, a governmental entity may reconsider its decision in the underlying governmental land use action in accordance with the agreement as long as that reconsideration does not violate any substantive application or review requirement.

12. Mediator's report. Within 90 days after the landowner files an application for mediation, the mediator shall file a report with the Superior Court clerk. The mediator shall file the report as soon as possible if the mediator determines that a mediated agreement is not possible. The report must contain:

A. The names of the mediation participants, including the landowner, the governmental entity and any other persons;

B. The nature of any agreements reached during the course of mediation, which mediation participants were parties to the agreements and what further action is required of any person;

C. The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and

D. A copy of any written agreement under subsection 11.

13. Application. This subchapter applies to final agency actions and failures and refusals to act occurring after the effective date of this subchapter.

14. Repeal. This subchapter is repealed October 1, 2001.

Sec. 6. 5 MRSA §8056, sub-§6, as enacted by PL 1981, c. 524, §13, is amended to read:

6. Attorney General review and approval. The review required in subsection 1 ~~shall~~ may not be performed by any person involved in the formulation or drafting of the proposed rule. The Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property under the Constitution of Maine unless such a result is directed by law or sufficient procedures exist in law or in the proposed rule to allow for a variance designed to avoid such a taking.

Sec. 7. 5 MRSA §8072, sub-§4, ¶¶F and G, as enacted by PL 1995, c. 463, §2, are amended to read:

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; ~~and~~

Sec. 8. 5 MRSA §8072, sub-§4, ¶H is enacted to read:

H. For a rule that is reasonably expected to result in a significant reduction in property values, whether sufficient variance provisions exist in law or in the rule to avoid an unconstitutional taking, and whether, as a matter of policy, the expected reduction is necessary or appropriate for the protection of the public health, safety and welfare advanced by the rule.

Sec. 9. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

JUDICIAL DEPARTMENT

Land Use Mediation Fund

All Other	\$5,000
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Allocates funds to cover the cost of providing mediation services.

See title page for effective date.

CHAPTER 538

H.P. 1205 - L.D. 1655

An Act to Conform the Maine Tax Laws for 1995 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 the 1995 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 taxes; 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 1995, c. 118, §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, ~~1994~~ 1995.

Sec. 2. Application. This Act applies 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 March 14, 1996.

CHAPTER 539

H.P. 1232 - L.D. 1685

An Act to Provide Protection from Motor Vehicle Damage to Forest Lands

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

Sec. 1. 17 MRSA §3853-D, as enacted by PL 1989, c. 289, is amended to read:

§3853-D. Operating a motor vehicle on land of another

1. Damage or destruction to farmland or forest land. A person who, as a result of operating a motor vehicle on farmland or forest land in fact, damages or destroys crops, forest products, personal property or roads on that farmland or forest land, commits a Class E crime.

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

A. "Farmland" means land used for the production of fruits, vegetables, grains, hay or herbs that consists of 5 or more contiguous acres. The term "farmland" does not include land used for the production of wood products.

A-1. "Forest land" means land used for the production of forest products.

A-2. "Forest products" means any woody stemmed plant as well as any products that have been harvested but not yet transported from the harvesting site, including logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, evergreen boughs and cones for seed production.

B. "Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, including all-terrain vehicles as defined in Title 12, section 7851, but not including snowmobiles.

3. Application. This section does not apply to:

A. A landowner operating a motor vehicle on farmland or forest land owned by that landowner;

B. A person given permission by a landowner to operate a motor vehicle on farmland or forest land owned by that landowner;

C. An agent or employee of a landowner who operates a motor vehicle on farmland or forest land owned by that landowner in the scope of that agent's or employee's agency or employment; or

D. A law enforcement officer who, in an emergency and in the scope of that law enforcement officer's employment, operates a motor vehicle on farmland or forest land owned by another.

See title page for effective date.

CHAPTER 540

S.P. 651 - L.D. 1703

An Act to Confirm That Nonprofit Health Care Providers May Achieve Cost Savings on Professional and General Liability Coverage

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

Sec. 1. 24-A MRSA §6099, sub-§3, as enacted by PL 1993, c. 313, §39, is amended to read:

3. Prohibition on retention of risk. A purchasing group ~~must~~ may not purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. ~~That; however~~ coverage ~~also~~ may provide for a deductible or self-insured retention applicable to individual members.

See title page for effective date.

CHAPTER 541

S.P. 745 - L.D. 1856

An Act to Clarify the Early Retirement Incentives Law

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

Whereas, early retirement by state employees and teachers results in costs to the Maine State Retirement System that are significantly higher than the costs of retirement at normal retirement age; and

Whereas, those increased costs result from the earlier cessation of payment to the retirement system of employer and employee contributions toward retirement and the increased period over which the retirement system must pay retirement benefits to early retirees and their beneficiaries; and

Whereas, when the rate of early retirement exceeds the actuarially assumed rate, there is an increase in the unfunded liability of the retirement system; and

Whereas, it is the policy of the State, as embodied in current law, to discourage employers from offering early retirement incentives to state employees and teachers, thereby controlling the increase in unfunded liability, by requiring that employers pay the additional costs of early retirement incentives to the retirement system; and

Whereas, it is immediately necessary in order to limit increases in the unfunded liability due to early retirement incentives to define terms and clarify procedures for implementing 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 §12004-G, sub-§26-C is enacted to read:

<u>26-C.</u>	<u>Early</u>	<u>Expenses</u>	<u>5 MRSA</u>
<u>Labor</u>	<u>Retirement</u>	<u>Only for</u>	<u>§17159</u>
	<u>Incentives</u>	<u>Certain</u>	
	<u>Review Panel</u>	<u>Members</u>	

Sec. 2. 5 MRSA §17154, sub-§10, as amended by PL 1995, c. 462, Pt. A, §14, is repealed and the following enacted in its place:

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 pursuant to section 17159. For purposes of this subsection, "early retirement" has the same meaning as in section 17159, subsection 1.

Sec. 3. 5 MRSA §17159 is enacted to read:

§17159. Early retirement incentive costs

When an employee retires prior to normal retirement age and receives from the employer any significant monetary or nonmonetary payment or award in connection with the employee's retirement, the employer must, prior to the effective date of the employee's retirement, demonstrate that the payment or award is not a retirement incentive or pay the additional actuarial and reasonable administrative costs of the employee's early retirement.

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

A. "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.

B. "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.

2. Criteria for identifying an early retirement incentive. A payment or award in connection with retirement is an incentive for early retirement for which the employer offering the incentive is responsible for the additional costs pursuant to section 17154, subsection 10 if all the criteria established in this subsection are met:

A. The payment or award is intended to induce the member's early retirement;

B. The payment or award is a one-time, time-limited or occasional offer outside the employer's regular benefit program;

C. The payment or award is not part of a longevity-based employee retention program; and

D. The payment or award is not made pursuant to a collective bargaining agreement for the initial term of that agreement if that agreement is executed or ratified in its final form by final vote of at least one of the parties to the agreement prior to July 1, 1993.

3. Employer provides information. If a member retires prior to normal retirement age and receives a significant monetary or nonmonetary payment or award in connection with the retirement, prior to the effective date of the member's retirement or, if a payment or award that was not known or anticipated prior to retirement is given after retirement, within 7 business days of the date upon which the payment or award is given, the employer must provide the following information to the retirement system:

A. Documents demonstrating that any of the criteria established in subsection 2 is not met. By way of example and not limitation, such documents include collective bargaining agreements, whether principal agreements, side agreements or memoranda of agreement or understanding; records of official actions by the employer; relevant rules or policies of the employer; records of prior or contemporaneous relevant retirements of employees of the employer; notices, memoranda or other communications from the employer to employees regarding retirement; and correspondence between the employer and an employee, employees or employee representatives concerning retirement; and

B. Certification on a form provided by the retirement system and signed by the employer, or the responsible officer of the employer on the employer's behalf, that the payment or award does not meet the criteria established in subsection 2 and is not an action or practice causing or encouraging early retirement.

4. Early Retirement Incentives Review Panel.

The Early Retirement Incentives Review Panel as established in section 12004-G, subsection 26-C and referred to in this section as the "panel" is responsible for determining whether any payments or awards made in connection with member retirement satisfy

the criteria for early retirement incentives established in subsection 2.

A. The panel consists of the Commissioner of Administrative and Financial Services or the commissioner's designee who has authority to act on behalf of the commissioner and 3 members appointed by the Governor. One member represents school administrators; one member represents teachers; and one member is either of the 2 trustees of the board who are appointed by the Governor and qualified in the fields of investments, accounting, banking and insurance or as actuaries. Members shall elect a chair annually.

B. The term of office is 3 years or until a successor is appointed and qualified.

C. Members serve without compensation, except that the members representing school administrators and teachers may be reimbursed for expenses incurred in the performance of their duties.

D. The executive director shall provide staff assistance to the panel and is responsible to collect, hold and distribute to review panel members, prior to panel meetings, documents and certifications submitted by employers, to schedule meetings, record panel actions, send determinations to employers and carry out related functions on the panel's behalf.

E. The panel shall meet at least quarterly, unless there are no matters then requiring determination or reconsideration, and may meet more often.

F. The panel may continue in existence after July 1, 1999 only if the Legislature, on review, determines that the panel should continue.

G. The review panel may adopt rules in accordance with the Maine Administrative Procedure Act necessary to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter II-A.

H. Annually, by January 15, the board shall issue a report to the joint standing committee of the Legislature having jurisdiction over retirement matters on early retirement incentives, including, but not limited to, trends in average retirement age and use of incentives to induce early retirement.

5. Panel determinations. The employer has the burden of demonstrating that a payment or award in connection with retirement does not meet one or more of the criteria of subsection 2. The review panel is responsible for determining whether the documents

and certification submitted by an employer satisfy the requirements of subsection 3 and whether the documentation provided by the employer satisfies the employer's burden with respect to subsection 2.

The panel shall make its determination based on documentation in its possession. If the panel finds that the employer has satisfied the requirements of subsection 3 and has demonstrated that any one of the criteria of subsection 2 is not met, it shall issue a determination that the payment in connection with retirement is not an early retirement incentive. When the panel can not make both of those findings, it shall issue a determination that the payment or award in connection with retirement is an early retirement incentive.

Except as otherwise provided, the panel is not required to issue determinations on hypothetical or proposed actions or practices.

6. Panel decision. At least 3 members must be present for the review panel to conduct business. The review panel's determination must be made by majority vote of the members present. If the members' votes are evenly divided, the additional actuarial and reasonable administrative costs associated with the early retirement in question must be shared equally between the employer and the State. In all cases, the panel shall issue a written determination specifying the basis for the determination.

7. Reconsideration; final decision. An employer receiving a determination that makes it liable for the full actuarial and reasonable administrative costs or for an equal share of these costs may request the panel to reconsider the determination. A reconsideration request must be received by the executive director within 30 days of an employer's receipt of the review panel's determination. If the employer provides, with the reconsideration request, additional documentation or a written statement of the reasons it believes the determination to be incorrect, the panel shall reconsider its determination. Otherwise, the panel may, but is not required to, reconsider its determination. The review panel's determination is final upon expiration of the 30-day period following the employer's receipt of the initial decision when no request for reconsideration is made, or 30 days after the employer's receipt of the panel's decision not to reconsider its determination, or 30 days after the employer's receipt of the panel's decision on reconsideration. There is no further review from that determination available from the panel.

8. Employer payment for costs resulting from early retirement incentives. Employer payment for costs resulting from early retirement incentives are governed by this section pursuant to section 17154, subsection 10.

A. The additional actuarial costs that result from the early retirement of a member who has received an early retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) The retirement system shall determine the additional actuarial costs for which the employer is liable in individual situations as follows:

(a) First, the annual retirement benefit payable to the member upon the member's early retirement date must be calculated in accordance with the governing provisions of the retirement system statutes and rules;

(b) Second, the annual retirement benefit that would be payable to the member on a fully actuarially reduced basis must be calculated in accordance with the actuarial equivalent early retirement reduction factors prescribed by the retirement system's consulting actuary and approved by the board;

(c) Third, the retirement benefit calculated in division (b) must be subtracted from the retirement benefit calculated in division (a); and

(d) Fourth, a present-value factor must be applied to the amount determined in division (c) to convert the annual benefit amount to a lump sum present-value dollar amount. This amount represents the additional actuarial cost resulting from the early retirement of a member who has been offered a retirement incentive.

(2) The retirement system shall bill the employer of retiring members who will receive or have received early retirement incentives for the additional actuarial costs as determined by the retirement system in subparagraph (1). The bill must be accompanied by a statement of the basis of the costs identified in the bill and the supporting calculations.

(3) All determinations of additional actuarial costs are subject to recalculation upon the actual retirement of the member and upon any subsequent recalculation of the member's early retirement benefit due to misreporting of member-specific information, error or any direction by the board to recalculate a member's benefit. Any resulting change in additional actuarial costs

must be paid or refunded, as appropriate, to the employer. Any administrative costs for recalculation of additional actuarial costs that is caused by actions of the employer must be paid by the employer.

B. The reasonable administrative costs that result from the early retirement of a member who has received a retirement incentive must be paid to the retirement system by the employer as provided in this paragraph.

(1) Subject to review and approval by the board, the executive director shall establish and may revise from time to time an administrative processing fee to determine the member-specific additional actuarial costs relating to an early retirement incentive for which the employer is liable. The fee must be based on the time required for making such determinations, must be reasonable and may not be set at a level that requires the retirement system's members and employers as a whole to subsidize the cost of a determination. The fee must be paid before the retirement system determines the member-specific additional actuarial costs.

(2) The employer must pay any additional actual administrative costs for member-specific information at an hourly administrative cost rate for the retirement system plus the retirement system's actual costs related to actuarial and legal services. Subject to review and approval by the board, the executive director shall establish and may from time to time revise the administrative cost rate.

(3) The employer must be billed for any actual administrative costs beyond the processing fee. If the member is already receiving a retirement benefit or preliminary benefit when the employer is billed for administrative costs, the employer must also be charged interest as a cost and must pay interest retroactive to the member's effective date of retirement. The bill must be accompanied by a statement of the basis of the administrative costs.

C. For early retirement incentives granted between July 1, 1993 and March 15, 1996, the employer must pay the amount calculated under paragraphs A and B plus interest due to the retirement system in accordance with a payment schedule not to exceed 10 years. For early retirement incentives granted after March 15, 1996, the employer must pay the amount calculated under paragraphs A and B to the

retirement system within 30 days of receipt of the bill.

D. If the employer or the member disputes the determination that additional actuarial costs must be paid by the employer, the amount of the additional actuarial costs or the amount of actual administrative costs, an appeal may be brought pursuant to section 17451 and Chapter 702 of the board's rules.

E. Interest must be charged by the retirement system and must be paid by the employer on all overdue amounts pertaining to the processing fee, additional actuarial costs and administrative costs. In addition, an employer who fails to pay is liable for penalties on a case-by-case basis as recommended by the executive director and approved by the board and shall pay all of the retirement system's costs associated with collection of amounts overdue and enforcement of the provisions of this section.

Sec. 4. Implementation.

1. Appointment of review panel members.

Appointments to the Early Retirement Incentives Review Panel established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 26-C must be made within 30 days of the effective date of this Act.

2. Payment of costs of early retirement incentives since July 1, 1993. Pursuant to the Maine Revised Statutes, Title 5, section 17154, subsection 10 as in effect between July 1, 1993 and the effective date of this Act, Jay, Scarborough, York, S.A.D. 25, S.A.D. 52, S.A.D. 56, School Union 29 and School Union 30 owe the Maine State Retirement System payments for the costs of early retirement incentive payments made to employees of those school units since July 1, 1993, as identified in the Maine State Retirement System's report to the Joint Standing Committee on Labor dated February 15, 1996. The amount owed must be determined and paid in accordance with this Act, except that interest may not be charged for the period between June 28, 1995 and March 15, 1996.

3. Other payments in connection with retirement since July 1, 1993. The Maine State Retirement System shall review payments other than those identified in subsection 2 that are made in connection with retirement by school administrative units between July 1, 1993 and the effective date of this Act to determine if those payments constitute an early retirement incentive offered by the employer under the Maine Revised Statutes, Title 5, section 17154, subsection 10 as in effect between July 1, 1993 and the effective date of this Act. Payments determined to be early retirement incentives must have

their costs determined and paid as provided in this Act.

The Early Retirement Incentives Review Panel shall review those other payments made in connection with retirement between July 1, 1993 and the effective date of this Act and issue an advisory determination on whether those payments would meet the criteria for early retirement incentives established in this Act if they were offered after the effective date of this Act.

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

Effective March 14, 1996.

CHAPTER 542

H.P. 609 - L.D. 819

An Act to Require Notification to the Landowner When Land Is Being Considered for Placement in a Resource Protection Zone

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. 38 MRSA §438-A, sub-§1-B is enacted to read:

1-B. Notification to landowners. This subsection governs notice to landowners whose property is being considered for placement in a resource protection zone.

A. In addition to the notice required by Title 30-A, section 4352, subsection 9, a municipality shall provide written notification to landowners whose property is being considered by the municipality for placement in a resource protection zone. Notification to landowners must be made by first-class mail to the last known addresses of the persons against whom property tax on each parcel is assessed. The municipal officers shall prepare and file with the municipal clerk a sworn, notarized certificate indicating those persons to whom notice was mailed and at what addresses, and when, by whom and from what

location notice was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate. The municipality must send notice not later than 14 days before its planning board votes to establish a public hearing on adoption or amendment of a zoning ordinance or map that places the landowners' property in the resource protection zone. Once a landowner's property has been placed in a resource protection zone, individual notice is not required to be sent to the landowner when the zoning ordinance or map is later amended in a way that does not affect the inclusion of the landowner's property in the resource protection zone.

B. In addition to the notice required by this Title or by rules adopted pursuant to this Title, the board shall provide written notification to landowners whose property is being considered by the board for placement in a resource protection zone. Notification to landowners must be made by first-class mail to the last known addresses of the persons against whom property tax on each parcel is assessed. The board shall prepare and file with the commissioner a sworn, notarized certificate indicating those persons to whom notice was mailed and at what addresses, and when, by whom and from what location notice was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate. The board must send notice not later than 30 days before the close of the public comment period prior to formal consideration of placement of the property in a resource protection zone by the board. Upon request of the board, the municipality for which the ordinance is being adopted shall provide the board with the names and addresses of persons entitled to notice under this subsection. Notification and filing of a certificate by the department are deemed to be notification and filing by the board for purposes of this section.

C. Any action challenging the validity of an ordinance based on failure by the board or municipality to comply with this subsection must be brought in Superior Court within 30 days after adoption or amendment of the ordinance or map. The Superior Court may invalidate an amended ordinance or map if the appellant demonstrates that the appellant was entitled to receive notice under this subsection, that the municipality or board failed to send notice as required, that the appellant had no knowledge of the proposed adoption or amendment of the ordinance or map and that the appellant was materially prejudiced by that lack of knowledge. This paragraph does not alter the right of a person to challenge the validity of any ordinance or map based on the fail-

ure of a municipality to provide notice as required by Title 30-A, section 4352, subsection 9 or the failure of the board to provide notice as required by this Title.

See title page for effective date.

CHAPTER 543

H.P. 1228 - L.D. 1681

An Act Pertaining to the Northern New England Passenger Rail Authority

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

Sec. 1. 14 MRSA §8102, sub-§4, as amended by PL 1993, c. 410, Pt. L, §44, is further amended to read:

4. State. "State" means the State of Maine or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the Maine Port Authority, the Northern New England Passenger Rail Authority, the Maine Technical College System, the Maine Veterans' Homes, the Maine State Retirement System and all such other state entities.

Sec. 2. 23 MRSA §8005, sub-§2, as enacted by PL 1995, c. 374, §3, is amended to read:

2. Expenditure of funds. These funds must be spent first to reinstate, ~~on or before December 31, 1995, at the earliest practicable time,~~ 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.

Sec. 3. 23 MRSA §8112, sub-§2, as enacted by PL 1995, c. 374, §3, is amended to read:

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 then in office~~ is 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.

See title page for effective date.

CHAPTER 544

H.P. 1231 - L.D. 1684

An Act to Consolidate Insurer Billing Procedures and to Streamline the Licensing Process for Reinsurance Intermediaries

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

Whereas, insurers and the Bureau of Insurance may assume considerable expenses that may otherwise be avoided under the provisions contemplated by this legislation; and

Whereas, current provisions of the law result in significant inefficiencies within the Bureau of Insurance that may otherwise be streamlined with this legislation; and

Whereas, to implement these provisions immediately requires that this legislation be enacted as emergency 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. 24-A MRSA §237, sub-§§4 and 5, as amended by PL 1991, c. 334, §4, are further amended to read:

4. Notification of assessment. On or before July 1st of each year, the superintendent shall ~~notify forward to each insurer an itemized bill of the amount due for the annual assessment due, the amount due for filing of the annual statement pursuant to sections 423 and 601 and the amount due for the certificate of authority annual continuation fee pursuant to section 601.~~ When an extension of the time of filing an annual statement is granted for good cause by the superintendent pursuant to section 423, subsection 1, the insurer must be assessed a provisional amount of \$100. Upon receipt of the insurer's annual statement, the provisional assessment must be adjusted to effect a final assessment for the fiscal year at the same rate

utilized by the superintendent and ~~which was~~ levied upon all insurers by the general assessment of July 1st.

5. Time of payment. ~~Payment Time of payment for the annual assessment, the annual statement filing fee and the annual continuation fee must be made on or before August 10th.~~

Sec. 2. 24-A MRSA §237, sub-§6, as enacted by PL 1985, c. 446, §2, is amended to read:

6. Revocation or suspension. If the annual assessment, annual statement filing fee or annual continuation fee is not paid to the superintendent on or before the prescribed date, the license or certificate of authority of ~~any an~~ insurer to transact business in this State may be revoked or suspended by the superintendent after a hearing ~~thereon~~ or upon waiver of hearing by the insurer until the annual assessment, annual statement filing fee and annual continuation fee is paid. ~~There shall be no A~~ reinstatement of certificate of authority may not be made prior to payment of the balance of the annual assessment, annual statement filing fee or continuation fee.

Sec. 3. 24-A MRSA §415, sub-§1, as amended by PL 1981, c. 501, §39, is further amended to read:

1. A certificate of authority ~~shall continue~~ continues in force as long as the insurer is entitled ~~thereto~~ under this Title; and until suspended or revoked by the ~~Administrative Court~~ superintendent or terminated at the insurer's request, ~~subject to continuance of the certificate by the insurer biennially by:~~

~~A. Payment on or before March 1st of the continuation fee provided in section 601;~~

~~B. Due filing by the insurer of its annual statements as required by section 423; and~~

~~C. Payment by the insurer of premium taxes as required by section 602.~~

Sec. 4. 24-A MRSA §415, sub-§2, as repealed and replaced by PL 1977, c. 222, §1, is repealed.

Sec. 5. 24-A MRSA §423, sub-§4, as enacted by PL 1969, c. 132, §1, is amended to read:

4. ~~At time of filing~~ Before August 10th, and at the same time the insurer makes payment for its annual assessment, the insurer shall pay the fee for filing its annual statement as prescribed by section 601 (fee schedule).

Sec. 6. 24-A MRSA §601, sub-§1, ¶B, as amended by PL 1991, c. 334, §5, is further amended to read:

B. Issuance, and each ~~biennial~~ annual continuation ~~\$200~~ \$100; and

Sec. 7. 24-A MRSA §742, as amended by PL 1995, c. 329, §5, is further amended to read:

§742. Reinsurance intermediaries; licensing

1. Qualifications for license. For the protection of the people of this State, the superintendent may not issue, continue or permit to exist any reinsurance intermediary license except in compliance with this subchapter, ~~and as to any individual, unless the individual is an agent or broker in this State duly licensed pursuant to chapter 17.~~

~~**2. License requirement.** A person may not act as a reinsurance intermediary broker in this State unless licensed pursuant to this subchapter. A person may not act as a reinsurance intermediary manager in this State unless licensed pursuant to this subchapter.~~

2-A. License requirement. A person or organization may be authorized by the superintendent to act as a reinsurance intermediary under the following circumstances.

A. A person or organization acting in this State as a reinsurance intermediary broker who has an office in this State must be licensed as a resident agent, broker or reinsurance intermediary broker in order to do business in this State.

B. A person or organization acting in this State as a reinsurance intermediary broker who does not maintain an office in this State must either:

(1) Be licensed in this State as a nonresident agent, broker or reinsurance intermediary broker; or

(2) Be licensed in another state with substantially similar laws.

C. A person or organization acting in this State as a reinsurance intermediary manager, by representing a domestic insurer or by maintaining an office in this State, must be licensed as a resident agent, broker or reinsurance intermediary broker in order to do business in this State.

D. A person or organization acting in this State as a reinsurance intermediary manager who does not maintain an office in this State and who does not represent a domestic insurer must either:

(1) Be licensed as a nonresident agent, broker or reinsurance intermediary manager in this State; or

(2) Be licensed as an agent, broker or reinsurance intermediary manager in another state with substantially similar laws.

3. License forms. The superintendent shall prescribe, consistent with the applicable requirements of this subchapter, and furnish all printed forms required under this subchapter in connection with application for and issuance of licenses.

4. Application for licensure. Application for licensure is governed by this subsection.

A. Written application for a reinsurance intermediary license must be made to the superintendent by the applicant and be accompanied by the applicable license application and issuance fee shown in section 601. The application must be signed and duly sworn to by the applicant.

A-1. Prior to filing an application with the superintendent, the superintendent may require each applicant to take a written examination to test the applicant's competence to act as a reinsurance intermediary.

~~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, and insurance experience, and education in insurance and insurance laws of this State the applicant has had or expects to receive. 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.~~

C. If the applicant is a firm, association, partnership or corporation, the application must include, in addition, the names and residence addresses of all members, officers and directors and designate the name and residence address of each individual who is to exercise the license powers. Each individual shall furnish information with respect to the concerning that individual as for an individual license. Every individual named in the application is authorized to act in the name of the

organization licensed as a reinsurance intermediary in this State.

~~D. If the application is not submitted simultaneously with an application for an agent or broker license, the~~ The application must indicate whether any insurance license was ever refused, suspended, revoked or continuance refused and whether any insurer, general agent, individual or organization claims that the applicant is indebted to it; and, if so, the details of the indebtedness and the applicant's defense to that indebtedness.

5. Additional requirements. The superintendent may require a reinsurance ~~intermediary manager~~ intermediary manager to:

A. File a surety bond issued by a licensed insurer, in an amount and format acceptable to the superintendent, for the protection of the reinsurer; or

B. Maintain an errors and omissions policy issued by an insurer licensed in this State in an amount acceptable to the superintendent.

6. Nonresident applicant. If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, must designate the superintendent as agent for service of process in the manner and with the same legal effect provided for by this Title for designation of service of process upon unauthorized insurers. The applicant shall furnish the superintendent with the name and address of a resident of this State upon whom notices or orders of the superintendent or process affecting the nonresident reinsurance intermediary may be served. If a nonresident applicant becomes licensed, the licensee shall promptly notify the superintendent in writing of every change in its designated agent for service of process. Such a change is not effective until acknowledged by the superintendent.

7. Attorneys exempted. Licensed attorneys-at-law of this State when acting in their professional capacity are exempt from this section.

Sec. 8. 24-A MRSA §743, as enacted by PL 1991, c. 828, §20, is amended to read:

§743. General provisions

The superintendent may issue a reinsurance intermediary license to any person or organization that complies with the requirements of this subchapter.

1. Licensing; persons that are not individuals. Licensing of a firm, association, partnership or corporation is subject to this subsection.

A. A license issued to a firm, association, partnership or corporation authorizes all the members of the firm, association, partnership or corporation and ~~any~~ employees of those entities to act as reinsurance intermediaries if each individual is also licensed named in the application and registered with the superintendent. Those individuals exercise the license power only for and in the name of the organization. This paragraph does not prevent an individual from being separately licensed and acting in that individual's own behalf and name.

B. The superintendent may not license a firm, association, partnership or corporation unless the license is within purposes stated in the partnership agreement or certificate of organization. All licensees are subject to the applicable standards of section 407, subsection 2.

C. All licensees under this subsection are subject to the same restrictions with regard to ~~deceptively similar~~ business names as applied to insurers under section 408, ~~subsection 4~~.

2. Advertising. Licensees may advertise only in the name under which they are licensed.

3. Notice of change. Licensees shall promptly notify the superintendent of every change in address and notify the superintendent of every change among its members, directors and officers and of other individuals designated in or registered ~~as~~ to the license.

4. Refusal. The superintendent may refuse to issue a license to a reinsurance intermediary if, in the superintendent's judgment, the applicant, ~~any one~~ person named on the application, or ~~any~~ a member, principal, officer or director of the applicant, is not trustworthy, has given cause for revocation or suspension of such license or has failed to comply with any prerequisite for the issuance of such license, or that any controlling person of an applicant is not trustworthy to act as a reinsurance intermediary.

5. Superintendent review. If the superintendent finds that the application is complete and that the applicant is otherwise qualified for the license applied for, the superintendent shall promptly issue the license. Otherwise, the superintendent shall refuse to issue the license, promptly notify the applicant of the refusal and state the grounds for refusal.

6. Refund. If the license is refused, the superintendent shall promptly refund to the applicant all fees received for application for a reinsurance intermediary license.

7. Duration. Unless revoked or suspended, a reinsurance intermediary license remains in effect as

long as ~~the licensee continues to hold a valid Maine broker or agent license and~~ the licensee pays the ~~biennial~~ annual fee required by section 601 before the anniversary date of the license.

Sec. 9. 24-A MRSA §2916-C is enacted to read:

§2916-C. Discontinuance of a line of business

If an insurer files a plan with the superintendent to discontinue business in a line of insurance subject to this subchapter, the superintendent may authorize the nonrenewal of policies in that line of business if the plan filed by the insurer demonstrates the availability of equivalent replacement policies for all policyholders at the same or lower rates. The nonrenewal of a policyholder pursuant to this section may not be considered by an insurer in future coverage determinations. An insurer may resume transacting business in a line of insurance discontinued pursuant to this section upon written notification to the superintendent.

Sec. 10. 24-A MRSA §3055-A is enacted to read:

§3055-A. Discontinuance of a line of business

If an insurer files a plan with the superintendent to discontinue business in a line of insurance subject to this subchapter, the superintendent may authorize the nonrenewal of policies in that line of business if the plan filed by the insurer demonstrates the availability of equivalent replacement policies for all policyholders at the same or lower rates. The nonrenewal of a policyholder pursuant to this section may not be considered by an insurer in future coverage determinations. An insurer may resume transacting business in a line of insurance discontinued pursuant to this section upon written notification to the superintendent.

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

Effective March 19, 1996.

CHAPTER 545

H.P. 1248 - L.D. 1710

**An Act to Simplify Applications for
Tax Exemptions for Blind
Individuals**

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

Sec. 1. 36 MRSA §654, sub-§1, ¶E, as amended by PL 1993, c. 708, Pt. J, §13, is further amended to read:

E. The residential real estate up to the just value of \$4,000 of inhabitants of Maine who are legally blind as determined by ~~the Department of Education, Division for the Blind and Visually Impaired~~ a properly licensed Doctor of Medicine, Doctor of Osteopathy or Doctor of Optometry; and

See title page for effective date.

CHAPTER 546

S.P. 674 - L.D. 1734

An Act to Amend the Commercial Vehicle Weight Laws

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

Sec. 1. 29-A MRSA §2360, 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 person who is guilty of excessive vehicle weight must be punished by a fine in accordance with this section. When both gross and axle weight limits are exceeded, the penalty imposed must be for the violation that results in the higher fine except that, for a violation of section 2355, a minimum fine must also be imposed for any other applicable violation of section 2355 in accordance with subsection 9.

Sec. 2. 29-A MRSA §2362, sub-§§2 to 4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

2. Suspension for repeat offenders. If the record maintained by the Secretary of State shows that a vehicle has been operated in violation of section 2361 3 or more times during a 12-month period, 5 or more times during a 24-month period or 7 or more times during a 36-month period, then the Secretary of State shall suspend the registration plates and certificate of that vehicle, or, for a foreign-registered vehicle, the right to operate in this State.

3. Length of suspension. The term of suspension ~~for the 3rd offense is 30 days and, for the 4th and subsequent offenses, 60 days.~~ for the 3rd offense within a 12-month period, the 5th offense within a 24-month period or the 7th offense within a 36-month period. The term of suspension is 60 days for the 4th and subsequent offenses within a 12-month period, the

6th and subsequent offenses within a 24-month period or the 8th and subsequent offenses within a 36-month period. Prior offenses for the 24-month period and 36-month period must be determined in the same manner as provided for the 12-month period in section 2361, subsection 3.

4. Criminal penalty. Notwithstanding section 2361, a 3rd or subsequent violation of section 2361 within a 12-month period, a 5th or subsequent violation within a 24-month period or a 7th or subsequent violation within a 36-month period is a Class E crime, but the fine specified in section 2361 and the suspension specified in this section apply.

See title page for effective date.

CHAPTER 547

H.P. 617 - L.D. 827

An Act to Provide for Record Checks of Elementary and Secondary Education Employees and Applicants

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

Sec. 1. 20-A MRSA c. 221, sub-c. III, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER III

EMPLOYEE AND APPLICANT RECORDS

Sec. 2. 20-A MRSA §6101, sub-§1, ¶¶E and F, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

E. Major and minor fields of study recognized by the post-secondary institutions attended; ~~and~~

F. Degrees received and dates awarded; ~~and~~

Sec. 3. 20-A MRSA §6101, sub-§1, ¶G is enacted to read:

G. Criminal history record information obtained pursuant to section 6103.

Sec. 4. 20-A MRSA §6101, sub-§2, ¶B, as amended by PL 1987, c. 620, §1, is further amended to read:

B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to the employee's immediate family, ~~shall~~ must be kept confidential if it relates to the following:

(1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;

(2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;

(4) Credit information;

(5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;

(6) Complaints, charges of misconduct, replies ~~thereto~~ to complaints and charges of misconduct and memoranda and other materials pertaining to disciplinary action;

(7) Social security number; ~~and~~

(8) The teacher action plan and support system documents and reports maintained for certification purposes; ~~and~~

(9) Criminal history record information obtained pursuant to section 6103.

Sec. 5. 20-A MRSA §6103 is enacted to read:

§6103. Criminal history record information conviction data

Beginning January 1, 1999, certification, authorization and renewal under chapters 501 and 502 are subject to the provisions of this section.

1. Conviction data obtained; reliance. The commissioner shall obtain criminal history record information containing a record of conviction data from the Maine Criminal Justice Information System for any person applying for certification, authorization or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a certificate, authorization or renewal.

2. Issuance restriction. Issuance of a certificate, authorization or renewal to any person whose criminal history record information includes a criminal conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

3. Confidentiality. Any information obtained pursuant to this section is confidential.

4. Expenses. Notwithstanding Title 26, sections 594 and 629, the expense of obtaining the information required by this section must be paid by the applicant.

Sec. 6. Study committee. The Commissioner of Education shall convene a study committee to make recommendations on measures to protect children through record checks of elementary and secondary education employees and applicants for employment. The study committee consists of representatives from the Maine Education Association, the Maine School Management Association, the Department of the Attorney General, the Department of Education, the Bureau of State Police, and other groups designated by the commissioner.

The study committee shall consider the following issues:

1. Requiring federal record checks for employees or applicants for employment who are seeking certification, authorization or renewal;

2. Requiring federal and state record checks for employees or applicants for employment who have contact with children but whose positions do not require certification, authorization or renewal;

3. Whether the state record checks required in subsection 2 must be conducted at the state or local level; and

4. Whether allegation information concerning employees or applicants for employment may be shared and by whom.

The study committee shall present its report and any recommendations to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 15, 1996.

See title page for effective date.

CHAPTER 548

H.P. 1169 - L.D. 1601

An Act to Allow Physicians' Offices to Receive Discounts from Pharmaceutical Manufacturers

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

Sec. 1. 32 MRSA §13804, sub-§5 is enacted to read:

5. Parenterally administered oncologic drug products administered at medical office sites. This subchapter does not apply to parenterally administered oncologic drug products administered at medical office sites.

See title page for effective date.

CHAPTER 549

S.P. 608 - L.D. 1612

An Act to Repeal the Requirement that Disbursement Warrants Receive an Affirmative Vote by Municipal Officers

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 municipal disbursement warrants be approved by a majority of the municipal officers at public meetings; and

Whereas, for some municipalities, the law has created a hardship by requiring more frequent meetings and by the loss of early payment discounts on municipal bills; and

Whereas, this legislation provides a measure of relief for municipalities by authorizing municipalities through charter or ordinance to establish an alternative method of approving disbursement of municipal funds; and

Whereas, to provide maximum benefit to municipalities, this legislation must be enacted 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. 30-A MRSA §5603, sub-§2, ¶A, as amended by PL 1995, c. 83, §1, is further amended to read:

A. Except as provided in subparagraphs (1) and (2), and except as otherwise provided by charter or ordinance, 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;

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

Effective March 20, 1996.

CHAPTER 550

H.P. 1196 - L.D. 1646

An Act to Establish the Freeport Towne Square Mental Retardation Facility

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

Sec. 1. 34-B MRSA §1001, sub-§8, ¶¶E and F, as enacted by PL 1983, c. 459, §7, are amended to read:

E. The Aroostook Residential Center; ~~or~~

F. The ~~Military and Naval Bath~~ Children's Home; or

Sec. 2. 34-B MRSA §1001, sub-§8, ¶G is enacted to read:

G. Freeport Towne Square.

Sec. 3. 34-B MRSA §5401, as amended by PL 1995, c. 395, Pt. G, §14 and affected by §20, is further amended to read:

§5401. Maintenance of facilities

The department shall maintain the following residential ~~facility~~ facilities for the care and treatment of mentally retarded persons:

2. Aroostook Residential Center; and

4. Freeport Towne Square.

Sec. 4. 34-B MRSA §5405 is enacted to read:

§5405. Freeport Towne Square

1. Establishment. Freeport Towne Square is established in the Town of Freeport as a facility to care for persons with mental retardation.

2. Manager. The administrative head of Freeport Towne Square is the manager. The manager reports directly to the commissioner or the commissioner's designee.

3. Duties of the manager. The manager:

A. Is responsible for the training, education, treatment and care of all persons received into or receiving services from Freeport Towne Square;

B. Is responsible for the discharge of all persons received into Freeport Towne Square; and

C. Has direct supervision, management and control of the grounds, buildings, property, officers and employees of Freeport Towne Square, subject to the approval of the commissioner.

See title page for effective date.

CHAPTER 551

H.P. 1200 - L.D. 1650

**An Act Enabling the Maine
Employers' Mutual Insurance
Company to Better Serve the Needs
of Small Business**

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

Sec. 1. 24-A MRSA §2385-A, sub-§2, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is amended to read:

2. Optional deductible of \$250 or \$500. To employers ~~whose premium is between 100% and 500% of the premium qualifying for experience rating and to all employers in the logging and lumbering industries, including employers of drivers, and sawmill industries who are experience-rated~~, insurers shall offer a deductible of \$250 or \$500 per occurrence.

Sec. 2. 24-A MRSA §2385-A, sub-§3, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is repealed.

Sec. 3. 24-A MRSA §3702, sub-§3-A is enacted to read:

3-A. Maine-based employer. "Maine-based employer" means an employer with a principal place of business located in this State.

Sec. 4. 24-A MRSA §3703, sub-§1, as amended by PL 1991, c. 885, Pt. C, §3, is further amended to read:

1. Workers' compensation. The company shall provide workers' compensation insurance and employers' liability insurance incidental to and written in connection with workers' compensation coverage to ~~employees~~ employers in this State. The company may not write other lines of insurance. The company may not write reinsurance or excess insurance. For the purpose of providing insurance to Maine-based employers operating in other states, the company may apply to appropriate regulatory authorities in those states for authority to write workers' compensation and employers' liability insurance for Maine-based employers' operations in those states. Until the company has obtained the surplus otherwise required under this Title for casualty insurance companies, the company must receive approval from the superintendent before actually writing policies in each other state.

Sec. 5. 24-A MRSA §3710, sub-§2, ¶¶A and B, as enacted by PL 1991, c. 885, Pt. C, §8, are amended to read:

A. Shall collect from each applicant an advance premium of 25% of the estimated annual premium and shall bill subsequent premiums with advance notice to insureds to ensure that, if periodic premiums are not paid by insureds in a timely manner, ~~that~~ adequate time is available to give proper notice of cancellation prior to a previously collected premium being fully earned; ~~and~~

B. May assess its policyholders for additional funds to meet operating needs or as required by law; and

Sec. 6. 24-A MRSA §3710, sub-§2, ¶C is enacted to read:

C. May provide premium payment plans and premium financing programs providing payment terms other than those specified in paragraph A. Until the company has obtained the surplus otherwise required under this Title for casualty insurance companies, the company must receive

approval from the superintendent before implementing these programs.

See title page for effective date.

CHAPTER 552

H.P. 1209 - L.D. 1659

An Act to Allow Municipalities and Regions to Include Beneficial Use of Waste Originated in Their Jurisdiction As Credit in Demonstrating Recycling Progress

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

Sec. 1. 38 MRSA §2132, sub-§3, as amended by PL 1995, c. 23, §1, is further amended to read:

3. Beneficial use of waste. The use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam or electricity constitutes recycling only for the sole purpose ~~purposes~~ of determining whether the goals in subsection 1 are met and if the wastes would otherwise be placed in or stockpiled at a landfill and for determining municipal progress as provided in section 2133. In order for the use of waste under this subsection to constitute recycling, the office ~~determines~~ must determine that there is no reasonably available market in the State for recycling that waste and ~~if the wastes are~~ must be incinerated as a substitute for, or supplement to, fossil or biomass fuels ~~that constitute the primary fuels~~ incinerated in the industrial boiler or waste-to-energy facility.

See title page for effective date.

CHAPTER 553

H.P. 1215 - L.D. 1665

An Act to Amend the Maine Insurance Code with Respect to Domestic Violence

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

Sec. 1. 24-A MRSA §2159-B is enacted to read:

§2159-B. Discrimination against victims of domestic abuse prohibited

An insurer, nonprofit hospital and medical service organization or health maintenance organization that issues life, health or disability coverage may not deny, cancel, refuse to renew or restrict coverage of any person or require the payment of additional charges based solely on the fact or perception that the person is, or may become, the victim of domestic abuse, under Title 19, section 762. This section does not prohibit applying an underwriting or rating criterion to a victim of domestic abuse based on physical or mental history or other factors of general applicability regardless of the underlying cause and in accordance with the requirements of section 2159, subsections 1 and 2. An insurer, nonprofit hospital and medical service organization or health maintenance organization may not be held criminally or civilly liable for any cause of action that may result from compliance with this section. This section does not prohibit an insurer from declining to issue coverage to an applicant known to be, or to have been, an abuser of the proposed insured.

See title page for effective date.

CHAPTER 554

S.P. 639 - L.D. 1674

An Act to Allow Voluntary Withholding of Federal and State Income Taxes from Unemployment Compensation Benefits

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

Sec. 1. 26 MRSA §1191, sub-§9 is enacted to read:

9. Voluntary withholding of income tax. Individuals must be notified that federal, state and local income tax may be withheld from payments made on or after January 1, 1997 as follows.

A. An individual filing a new claim for unemployment compensation must be advised at the time of filing the claim, that:

(1) Unemployment compensation is subject to federal and state income taxes;

(2) Requirements exist pertaining to estimated tax payments;

(3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in the federal Internal Revenue Code;

(4) Notwithstanding the requirements of Title 36, section 5255-B, the individual may elect to have state income tax deducted and withheld from the individual's payment of unemployment compensation at the rate of 5%; and

(5) The individual must be permitted to change a previously elected withholding status.

B. Amounts deducted and withheld from unemployment compensation remain in the unemployment compensation fund until transferred to the federal or state taxing authority as a payment of income tax.

C. The commissioner shall follow all procedures specified by the United States Department of Labor and the federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

D. Amounts may be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayments, child support obligations, food stamp overissues or any other amounts required to be deducted and withheld under this chapter.

For purposes of this subsection, the term "unemployment compensation" means any compensation payable under this chapter, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.

See title page for effective date.

CHAPTER 555

H.P. 1229 - L.D. 1682

An Act to Transfer the Responsibility for Air Search and Rescue from the Commissioner of Transportation to the Chief of the State Police

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

Sec. 1. 6 MRSA §303, as amended by PL 1995, c. 504, Pt. B, §6, is further amended to read:

§303. Air search procedures

1. Agreements. The commissioner Chief of the State Police may establish agreements with public or

private agencies or organizations to assist in air search operations.

2. Situations covered. The commissioner Chief of the State Police shall establish and maintain a state air search and rescue plan for the immediate handling of the following emergency situations arising from aeronautical activities:

A. Locating aircraft believed lost and down within the State; and

B. Locating persons who are believed lost and down in the State as a result of accidents involving aircraft overflying the State or parachute jumps.

For purposes of this section, the phrases "within the State" and "in the State" include the coastal waters of the State as defined in Title 12, section 6001.

3. Plan of action. The state air search and rescue plan ~~shall~~ must provide a plan of action for search and rescue ~~which that~~ will mobilize all state and federal agencies ~~which that~~ can contribute in those emergencies and inform all ~~State~~ state and federal agencies ~~which that~~ request to be informed of any air search operation, in accordance with agreements reached in advance ~~and which relies upon~~. The plan may include utilization of the Maine Wing Civil Air Patrol to coordinate and control specific air search operations. The plan ~~shall~~ must provide that its first objective ~~shall be~~ is saving human life and rendering prompt aid to survivors.

4. Authority. The commissioner Chief of the State Police is responsible for the execution and overall coordination of air search and rescue efforts initiated in support of the air search and rescue plan by the Maine Wing Civil Air Patrol and those state and federal agencies ~~which that~~ are designated in the plan to play ~~an assisting~~ a role in emergencies.

A-1. The Chief of the State Police may delegate authority for overall coordination of air search and rescue efforts to a commissioned officer within the Bureau of State Police.

~~B. The Director of the Division of Aeronautics shall communicate and coordinate directly with the Air Search Mission Coordinator, an official of the Maine Wing Civil Air Patrol, who is involved in coordinating and controlling the specific air search operations conducted under the air search and rescue plan.~~

~~C. The Director of the Division of Aeronautics shall communicate and coordinate with state agencies who have agreed to offer mutual support in implementing the cooperative action plan for air search and rescue, when the~~

~~assistance is needed in searching for missing persons. The director shall immediately inform the Bureau of Marine Patrol of any aircraft that is believed lost over coastal waters of the State and keep the bureau apprised of the progress of the search for that aircraft.~~

See title page for effective date.

CHAPTER 556

S.P. 649 - L.D. 1691

An Act to Amend the Law Allowing the Growth and Sale of Cultivated Ginseng in Maine

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

Whereas, ginseng is a high-value crop that is in demand in other countries; and

Whereas, ginseng is considered to be a threatened species by the United States Fish and Wildlife Service; and

Whereas, the Department of Agriculture, Food and Rural Resources must certify that ginseng offered for sale from Maine is cultivated, thereby protecting the wild ginseng population in the State; and

Whereas, producers of ginseng must turn over confidential business information to the Department of Agriculture, Food and Rural Resources as a requirement of its certification program, which may endanger the security of their plantings; 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 §2226 is enacted to read:

§2226. Records not public

1. Records. Notwithstanding Title 1, chapter 13, ginseng license applications, the names and addresses of licensees and records required of licensees by the department pertaining to the location of ginseng plantings are confidential and may not be made available for public inspection.

2. Termination of confidentiality. Notwithstanding subsection 1, the confidential status of records designated confidential under subsection 1 terminates when the records are used by the department as evidence for an enforcement action pursuant to this chapter or are subpoenaed in any proceeding to enforce a provision of this chapter, or are used in any prosecution for a criminal violation.

3. Records disclosed by licensee. Notwithstanding subsection 1, a licensee may authorize in writing the disclosure of records designated confidential under subsection 1.

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

Effective March 20, 1996.

CHAPTER 557

H.P. 1250 - L.D. 1712

An Act to Increase the Municipal Share of Dog Licensing Fees

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

Sec. 1. 7 MRSA §3923-A, sub-§2, as amended by PL 1995, c. 409, §5, is further amended to read:

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.

Sec. 2. 7 MRSA §3950-A, first ¶, as amended by PL 1995, c. 490, §18, is further amended to read:

Any mayor, 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~~ 725 and ~~729~~ 730 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.

See title page for effective date.

CHAPTER 558

H.P. 1267 - L.D. 1742

An Act to Amend the Liquor Licensing Laws

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

Whereas, the professional baseball season will begin on or before June 1, 1996; 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 §2, sub-§15, ¶D-1 is enacted to read:

D-1. "Curling club" means any facility offering curling facilities to the public for a fee that has adequate facilities for the sale and consumption of liquor.

Sec. 2. 28-A MRSA §2, sub-§15, ¶M, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

M. "Outdoor stadium" means any commercially operated outdoor facility with 5,000 or more seats designed or used for the playing of any sport or event, which or any outdoor facility with 3,000 or more seats at times when that facility is being used for the playing of professional baseball, that is open to the general public, which charges a fee and ~~which~~ has adequate facilities

for the sale and consumption of wine and malt liquor.

Sec. 3. 28-A MRSA §1004, sub-§3, ¶E-1 is enacted to read:

E-1. Curling clubs;

Sec. 4. 28-A MRSA §1073, as amended by PL 1989, c. 244, §6, is further amended by repealing and replacing the headnote to read:

§1073. Indoor racquet clubs; ice skating clubs; golf club facilities; curling clubs; and bowling centers

Sec. 5. 28-A MRSA §1073, sub-§1, as amended by PL 1989, c. 244, §6, is further amended to read:

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 bowling centers, curling clubs, golf clubs, indoor ice skating clubs and indoor racquet clubs as defined in section 2, subsection 15, paragraphs B-1, D-1, G, J and K respectively.

Sec. 6. 28-A MRSA §1074, sub-§1, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

1. Issuance of licenses. The commission may issue licenses under this section for the sale of wine and malt liquor to be consumed on the premises to outdoor stadiums, as defined in section 2, subsection 15, paragraph M. A concessionaire or lessee may be issued a license under this section, regardless of whether it controls the premises, as long as that concessionaire or lessee complies with the notice provisions applicable to qualified catering services in section 1076, subsection 7 prior to exercising the license.

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

Effective March 20, 1996.

CHAPTER 559

H.P. 1302 - L.D. 1783

An Act to Repeal the Sunset and Reporting Requirements Regarding Transportation of Unscheduled Freight in Casco Bay

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

Sec. 1. 35-A MRSA §5111, as amended by PL 1993, c. 589, §8, is repealed.

See title page for effective date.

CHAPTER 560

H.P. 1363 - L.D. 1873

An Act to Implement the Recommendations of the Productivity Realization Task Force and 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 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 will become due and payable on or immediately after July 1, 1996; 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 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		

Personal Services	(\$15,920)	(\$2,520)
Provides for the deappropriation of Personal Services funds no longer required for unemployment costs.		

Financial and Personnel Services - Division of

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	18,838	41,088
All Other	750	1,500
TOTAL	19,588	42,588

Provides for the appropriation of funds from the transfer of one Planning and Research Associate I position from the Department of Economic and Community Development as part of the Department of Administrative and Financial Services cluster. This position will be reorganized to one Accountant II position.

Productivity Realization Task Force

All Other	(250,000)
Provides for the deappropriation of funds no longer required by the Productivity Realization Task Force.	

Public Improvements - Planning/Construction - Administration

Personal Services	(12,709)
Provides for the deappropriation of funds to reflect the net savings of eliminating one Clerk Typist II position and the transfer of one Data Entry Specialist position from the Department of Education.	

Executive Branch Departments and Independent Agencies - Statewide

Personal Services	156,104	315,826
Provides for the appropriation of funds for		

the unfunded liability portion of the Personal Services savings achieved through productivity plans.

Executive Branch Departments and Independent Agencies - Statewide

Personal Services 40,153 (49,506)

Provides for the appropriation of funds for the retiree health insurance portion of the Personal Services savings achieved through productivity plans.

Executive Branch Departments and Independent Agencies - Statewide

Personal Services 2,343,830 4,685,460
All Other 385,264 420,304
Capital Expenditures 5,491

TOTAL 2,734,585 5,105,764

Provides for the appropriation of funds identified as productivity savings under the provisions of Public Law 1995, chapter 99, Part D.

Taxation - Bureau of

Personal Services (100,000) (5,000)

Provides for the deappropriation of funds to adjust the unemployment allocation in fiscal years 1995-96 and 1996-97 as part of the productivity process.

Taxation - Bureau of

Personal Services (2,640)

Provides for the deappropriation of funds to reflect the net savings from eliminating one Clerk Typist II position and the transfer of one Data Control Clerk position from the Office of Substance Abuse.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

2,819,161 5,157,152

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Administration - Agriculture

All Other (25,000)

Provides for the deappropriation of funds from the transfer of computer pool services to the Office of Planning, Policy, Legislation and Information Services program in accordance with the approved restructuring plan.

Administration - Agriculture

Positions - Legislative Count (-2.0)
Personal Services (101,949)
All Other (5,000)

TOTAL (106,949)

Provides for the deappropriation of funds through the transfer of one Director of Administrative Services position and one Accountant I position to the Office of Planning, Policy, Legislation and Information Services in accordance with the approved restructuring plan.

Office of Agricultural, Natural and Rural Resources

All Other 3,800 11,264

Provides for the appropriation of funds for the transfer of Rural Resource and Agricultural Response support from Agricultural Production in accordance with the approved restructuring plan.

Agricultural Production

All Other (3,800) (11,264)

Provides for the deappropriation of funds for the transfer of Rural Resource and Agricultural Complaint Response support to the Office of

Agricultural, Natural and Rural Resources in accordance with the approved restructuring plan.		Provides for the appropriation of funds from the transfer of computer pool services from Administration in accordance with the approved restructuring plan.	
Public Services - Agriculture		Office of Planning, Policy, Legislation and Information Services	
All Other	(130,082)	Positions - Legislative Count	(2.0)
Capital Expenditures	(14,850)	Personal Services	101,949
		All Other	5,000
TOTAL	(144,932)	TOTAL	106,949
Provides for the deappropriation of funds through the transfer of Division of Regulation All Other and Capital Expenditures funds to the new Division of Quality Assurance and Regulations in accordance with the approved restructuring plan.		Provides for the appropriation of funds through the transfer of one Director of Administrative Services position and one Accountant I position from Administration - Agriculture in accordance with the approved restructuring plan.	
Public Services - Agriculture		DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES	
Personal Services	(3,652)	TOTAL	(3,652) -0-
Provides for the deappropriation of funds from the salary savings derived through the transfer of one Clerk Typist II position from the Department of Education and the elimination of one Clerk Typist II position in this account.		ATTORNEY GENERAL, DEPARTMENT OF THE	
Marketing Services - Agriculture		Chief Medical Examiner - Office of	
All Other	130,082	Positions - Legislative Count	(-1.0) (-1.0)
Capital Expenditures	14,850	Personal Services	(32,783) (34,065)
TOTAL	144,932	Provides for the deappropriation of funds from the elimination of one vacant and unestablished Medical Examiner Assistant position.	
Provides for the appropriation of funds from the transfer of the Division of Regulation All Other and Capital Expenditures funds to the new Division of Quality Assurance and Regulations in accordance with the approved restructuring plan.		DEPARTMENT OF THE ATTORNEY GENERAL	
Office of Planning, Policy, Legislation and Information Services		TOTAL	(32,783) (34,065)
All Other	25,000	AUDIT, DEPARTMENT OF	
		Audit - Departmental Bureau	
		Personal Services	(3,214) (5,438)
		Provides for the deappropriation of funds through the	

reclassification of one Auditor I position to one Secretary position in accordance with the recommendations of the Productivity Realization Task Force.

Audit - Departmental Bureau

Personal Services (74,000)

Provides for the deappropriation of funds through the delayed hiring of personnel as recommended by the Productivity Realization Task Force.

DEPARTMENT OF AUDIT TOTAL

(77,214) (5,438)

ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF

Administration - Economic and Community Development

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (18,838) (41,088)
All Other (750) (1,500)

TOTAL (19,588) (42,588)

Provides for the deappropriation of funds from the transfer of one Planning and Research Associate I position to the Department of Administrative and Financial Services as part of the Productivity Realization Task Force administration cluster plan.

Administration - Economic and Community Development

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (12,194) (27,403)
All Other (21,850)

TOTAL (12,194) (49,253)

Provides for the deappropriation of funds from the elimination of one Account Clerk II position and All Other savings as part of the

Productivity Realization Task Force plan.

Business Development

All Other (48,545)

Provides for the deappropriation of All Other savings as part of the Productivity Realization Task Force plan.

Community Development Block Grant Program

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (57,322) (72,296)

Provides for the deappropriation of funds from the elimination of one Development Director position as part of the Productivity Realization Task Force plan.

Economic Conversion Division

All Other (5,000)

Provides for the deappropriation of All Other savings as part of the Productivity Realization Task Force plan.

Maine Economic Growth Council

All Other (10,000)

Provides for the deappropriation of All Other savings as part of the Productivity Realization Task Force plan.

Energy Resources - Office of

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (29,418) (52,751)
All Other (10,000)

TOTAL (29,418) (62,751)

Provides for the deappropriation of funds from the elimination of one Supervisor Energy Division position and All Other savings as part of the Productivity

Realization Task Force plan.			Administrative Office of the Commissioner		
International Commerce			Positions - Legislative Count	(-4.0)	
Positions - Legislative Count	(-1.0)	(-1.0)	Personal Services	(287,960)	
Personal Services		(5,294)	All Other	(52,286)	
Provides for the deappropriation of funds from the reorganization of the International Commerce Division and the resulting elimination of head count for one Development Project Officer position, as part of the Productivity Realization Task Force plan.			TOTAL		(340,246)
			Provides for the deappropriation of funds through the transfer of appropriation and positions to the Leadership program.		
			Administrative Office of the Commissioner		
			All Other	(106)	(500)
Maine Small Business Commission			Provides for the deappropriation of funds related to position eliminations.		
All Other		(17,455)	Administrative Services Unit		
Provides for the deappropriation of All Other savings as part of the Productivity Realization Task Force plan.			Positions - Legislative Count	(-3.0)	
			Personal Services	(140,646)	
			All Other	(44,295)	
			TOTAL		(184,941)
Office of Tourism			Provides for the transfer of appropriation and positions to the Leadership program.		
All Other		(78,900)	Administrative Services Unit		
Provides for the deappropriation of funds from All Other savings as part of the Productivity Realization Task Force plan.			Personal Services	1,050	
			Provides for the appropriation of funds for the reclassification of one Clerk Typist III position to one Personnel Specialist position.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			Division of Adult Education		
TOTAL	(118,522)	(392,082)	Positions - Legislative Count	(-1.0)	(-1.0)
EDUCATION, DEPARTMENT OF			Personal Services	(10,858)	(32,111)
Administrative Office of the Commissioner			Provides for the deappropriation of funds through the transfer of one Clerk Stenographer III position to the Department of Human Services.		
Positions - Legislative Count	(-1.0)	(-1.0)	Division of Adult Education		
Personal Services	(17,307)	(88,465)	Positions - Legislative Count	(-1.0)	(-1.0)
Provides for the deappropriation of funds through the transfer of one Deputy Commissioner of Education position to the Leadership program.			Personal Services	(6,868)	(64,631)

Provides for the deappropriation of funds through the elimination of one Director Division of Adult Education position.			II position and related All Other.		
Division of Adult Education			Certification, Placement and Teacher Education		
Positions - Legislative Count	(-3.0)		Positions - Legislative Count	(-6.0)	
Personal Services	(150,395)		Personal Services	(287,848)	
All Other	(3,901,541)		All Other	(50,690)	
			TOTAL	(338,538)	
TOTAL	(4,051,936)		Provides for the transfer of appropriation and positions to the Support Systems program.		
Provides for the transfer of appropriation and positions to the Learning Systems program.			Certification, Placement and Teacher Education		
Division of Adult Education			Positions - Legislative Count	(-1.0)	(-1.0)
All Other	(212)	(1,000)	Personal Services	(7,236)	(32,943)
Provides for the deappropriation of funds related to position eliminations.			Provides for the deappropriation of funds through the transfer of one Clerk Stenographer III position to the Department of Human Services.		
Division of Applied Technology			Division of Finance		
Positions - Legislative Count	(-3.5)		Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(186,383)		Personal Services	(9,933)	(68,900)
All Other	(41,250)		Provides for the deappropriation of funds through the transfer of one Director of Division of Finance position to the Regional Services program.		
TOTAL	(227,633)		Division of Finance		
Provides for the transfer of appropriation and positions to the Learning Systems Program.			Positions - Legislative Count	(-2.0)	(-2.0)
Certification, Placement and Teacher Education			Personal Services	(22,366)	(85,356)
Positions - Legislative Count	(-1.0)	(-1.0)	All Other	(424)	(2,000)
Personal Services	(7,467)	(54,450)	TOTAL	(22,790)	(87,356)
Provides for the deappropriation of funds through the transfer of one Education Specialist II position to the Regional Services program.			Provides for the deappropriation of funds through the elimination of one Accountant I position and one Assistant Director of Finance position and related All Other.		
Certification, Placement and Teacher Education			Division of Finance		
Positions - Legislative Count	(-1.0)	(-1.0)	Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(25,075)	(53,554)	Personal Services	(10,935)	(26,906)
All Other	(318)	(1,500)	Provides for the deappropriation of funds		
TOTAL	(25,393)	(55,054)			
Provides for the deappropriation of funds through the elimination of one Education Specialist					

through the transfer of one Account Clerk II position to the Department of Transportation.

Division of Finance

Personal Services (1,050)

Provides for the transfer of funds to the Administrative Services Unit for the reclassification of one Clerk Typist III position to one Personnel Specialist position.

Division of Finance

Positions - Legislative Count (-8.0)
Personal Services (318,733)
All Other (42,570)

TOTAL (361,303)

Provides for the transfer of appropriation and positions to the Support Systems program.

Division of Higher Education

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (10,858) (32,111)

Provides for the deappropriation of funds through the transfer of one Clerk Stenographer III position to the Department of Human Services.

Division of Higher Education

Positions - Legislative Count (-1.0)
Personal Services (75,649)
All Other (160,958)

TOTAL (236,607)

Provides for the transfer of appropriation and positions to the Support Systems program.

Division of Higher Education

All Other (212) (1,000)

Provides for the deappropriation of funds related to position eliminations.

Division of Instruction

Positions - Legislative Count (-6.0) (-6.0)
Personal Services (85,496) (345,534)

Provides for the deappropriation of funds through the transfer of 6 Education Specialist III positions to the Regional Services program.

Division of Instruction

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (19,794) (78,796)

Provides for the deappropriation of funds through the transfer of one Director of Division of Instruction position to the Learning Systems program.

Division of Instruction

Positions - Legislative Count (-4.0) (-4.0)
Personal Services (37,070) (126,719)

Provides for the deappropriation of funds through the transfer of one Secretary position, one Clerk Typist III position and one Clerk Stenographer III position to the Department of Human Services and one Clerk IV position to the Department of Conservation.

Division of Instruction

Positions - Legislative Count (-3.0)
Personal Services (165,347)
All Other (62,005) (1,584,842)

TOTAL (62,005) (1,750,189)

Provides for the transfer of appropriation and positions to the Learning Systems program.

Division of Instruction

All Other (20,348) (387,641)

Provides for the transfer of appropriation to the Regional Services program.

Division of Instruction

Positions - Legislative Count (-1.0) (-1.0)

Personal Services	(9,297)	(53,168)	position transferred from the Support Services Unit.		
Provides for the deappropriation of funds through the elimination of one Education Specialist II position.					
Division of Instruction			Learning Systems		
			Positions - Legislative Count		(10.5)
			Personal Services		563,168
			All Other	62,005	8,772,445
			TOTAL	62,005	9,335,613
All Other	(1,272)	(6,000)	Provides for the transfer of appropriation and positions from the Division of Instruction, the Division of Special Services, the Division of Adult Education, the Division of Applied Technology and Preschool Handicapped.		
Provides for the deappropriation of funds related to position eliminations.					
Leadership			Learning Systems		
Positions - Legislative Count		(10.0)	Positions - Legislative Count	(1.0)	(1.0)
Personal Services		536,685	Personal Services	22,740	80,256
All Other		107,008	Provides for the appropriation of funds for one Learning Systems Team Leader position from the class exchange of one Director of the Division of Instruction position transferred from the Division of Instruction.		
TOTAL		643,693	Management Information Systems		
Provides for the transfer of appropriation and positions from Administration - Office of the Commissioner, Administrative Services Unit, and Support Services Unit and for the appropriation of funds for the reclassification of one Clerk Typist III position to one Personnel Specialist position.			Positions - Legislative Count		(12.0)
Leadership			Personal Services		568,816
Positions - Legislative Count	(1.0)	(1.0)	All Other		269,765
Personal Services	23,664	83,456	TOTAL		838,581
Provides for the appropriation of funds for one Director of Special Projects position through the class exchange of one Deputy Commissioner of Education position transferred from the Administrative Office of the Commissioner.			Provides for the transfer of all appropriations and positions from the Division of Management Information.		
Leadership			Division of Management Information		
Positions - Legislative Count	(1.0)	(1.0)	Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	9,471	35,106	Personal Services	(3,940)	(29,431)
Provides for the appropriation of funds for the establishment of one Graphics Design/Clerk Typist III position from the class exchange of one Multilith Operator			All Other	(106)	(500)
			TOTAL	(4,046)	(29,931)
			Provides for the deappropriation of funds through the transfer of one Data Entry Specialist		

position to the Department of Administrative and Financial Services.			of 2 Educational Specialist II positions transferred from the Division of Special Services, one Educational Specialist II position transferred from Certification, Placement and Teacher Education and 6 Educational Specialist III positions transferred from the Division of Instruction.		
Division of Management Information					
Positions - Legislative Count		(-12.0)			
Personal Services		(568,816)			
All Other		(269,765)			
TOTAL		(838,581)			
Provides for the transfer of appropriation and positions to the Management Information Systems program.			Reimbursement for State Mandates		
			All Other		(2,000)
Preschool Handicapped			Provides for the transfer of appropriation to the Support Systems Program.		
Positions - Legislative Count		(-1.0)	Division of School Business Services		
Personal Services		(61,043)			
All Other		(3,021,447)			
TOTAL		(3,082,490)	Positions - Legislative Count	(-1.0)	(-1.0)
Provides for the transfer of appropriation and one position to the Learning Systems program.			Personal Services	(9,797)	(72,985)
Regional Services			Provides for the deappropriation of funds through the transfer of one Director Division of School Business Services position to the Support Systems program.		
All Other	20,348	387,641	Division of School Business Services		
Provides for the transfer of appropriation from the Division of Instruction.					
Regional Services			Positions - Legislative Count		(-4.0)
Positions - Legislative Count	(1.0)	(1.0)	Personal Services		(158,696)
Personal Services	22,740	80,256	All Other		(1,264,320)
Provides for the appropriation of funds for one Regional System Team Leader/Director of Quality Assurance position from the class exchange of one Director of the Division of Finance position transferred from the Division of Finance.			TOTAL		(1,423,016)
Regional Services			Provides for the transfer of all appropriations and positions to the Support Systems program.		
Positions - Legislative Count	(9.0)	(9.0)	Division of School Business Services		
Personal Services	144,108	509,828			
Provides for the appropriation of funds for 9 Regional Education Representative positions from the class exchanges			Positions - Legislative Count	(-3.0)	(-3.0)
			Personal Services	(60,317)	(154,659)
			Provides for the deappropriation of funds from the elimination of 2 Education Specialist I positions and one Education Specialist II position.		
			Division of School Business Services		

Positions - Legislative Count	(-1.0)	(-1.0)		
Personal Services	(9,518)	(28,609)	TOTAL	2,361,464
Provides for the deappropriation of funds through the transfer of one Clerk Typist II position to the Department of Agriculture, Food and Rural Resources.			Provides for the transfer of appropriation and positions from the Division of Certification, the Division of Finance, the Division of Business Services, the Division of Higher Education and the Reimbursement of State Mandates.	
Division of School Business Services			Support Systems	
All Other	(636)	(3,000)	Positions - Legislative Count	(1.0)
Provides for the deappropriation of funds related to position eliminations.			Personal Services	22,740
Division of Special Services			Provides for the appropriation of funds for one Support System Team Leader position from the class exchange of one Director of the Division of School Business Services position transferred from the Division of School Business Services.	(1.0)
Positions - Legislative Count	(-2.0)	(-2.0)		80,256
Personal Services	(29,168)	(106,336)	Support Services Unit	
Provides for the deappropriation of funds through the transfer of 2 Education Specialist II positions to the Regional Services program.			Positions - Legislative Count	(-1.0)
Division of Special Services			Personal Services	(4,420)
Positions - Legislative Count	(-1.0)	(-1.0)	Provides for the deappropriation of funds through the transfer of one Multilith Operator position to the Leadership program.	(-1.0)
Personal Services	(10,250)	(30,923)	Support Services Unit	(27,605)
Provides for the deappropriation of funds through the elimination of one Clerk Typist III position.			Positions - Legislative Count	(-3.0)
Division of Special Services			Personal Services	(108,219)
All Other		(223,365)	All Other	(10,427)
Provides for the transfer of appropriation to the Learning Systems program.			TOTAL	(118,646)
Division of Special Services			Provides for the transfer of all appropriations and positions to the Leadership program.	
All Other	(318)	(1,500)	Support Services Unit	
Provides for the deappropriation of funds related to position eliminations.			Positions - Legislative Count	(-2.0)
Support Systems			Personal Services	(15,177)
Positions - Legislative Count		(19.0)	Provides for the deappropriation of funds from the elimination of one Director of Public Information position and the transfer of one Supervisor of	(-2.0)
Personal Services		840,926		(91,248)
All Other		1,520,538		

Reproduction Services position to the Department of Corrections.			Provides for the deappropriation of funds through the class exchange of one Program Director for the Deaf position to one Principal position.		
Support Services Unit					
All Other	(424)	(2,000)			
Provides for the deappropriation of funds related to position eliminations.			DEPARTMENT OF EDUCATION		
			TOTAL	(250,455)	(936,268)
Governor Baxter School for the Deaf			ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Positions - Legislative Count	(-1.0)	(-2.0)	Administration - Environmental Protection		
Positions - Other Count	(-1.0)	(-1.0)			
Personal Services	(13,742)	(88,155)	Personal Services	876	3,684
Provides for the deappropriation of funds through the elimination of one Residential Advisor for the Deaf position and one Building Custodian position in fiscal year 1995-96. In addition, one Psychiatric Social Worker II position and one Watchperson position are being eliminated in fiscal year 1996-97.			Provides for the appropriation of funds for the reclassification of one Director of Public Information position to one Director, Education and Outreach position.		
Governor Baxter School for the Deaf			Land Quality Control		
Positions - Legislative Count	(-3.0)	(-3.0)	Positions - Legislative Count	(-2.0)	(-2.0)
Positions - Other Count	(3.0)	(3.0)	Personal Services	(40,924)	(85,296)
Personal Services	(10,765)	(12,046)	Provides for the deappropriation of funds from the transfer of one Environmental Specialist II position to the Land Quality Control program, Federal Expenditures Fund and one Environmental Specialist II position to the Maine Environmental Protection Fund program, Other Special Revenue.		
Provides for the deappropriation of funds through the reduced work hours of 2 Teacher positions and one Educational Specialist II position and an increase in hours of one Teacher position.			Oil and Hazardous Materials Control		
Governor Baxter School for the Deaf			Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(44,236)		Personal Services	(50,285)	(176,470)
Provides for the deappropriation of funds through salary savings.			Provides for the deappropriation of funds through the elimination of one Senior Environmental Engineer position, one Division Director Environmental Services position and the transfer of one Environmental Specialist IV position to the Oil and Hazardous Materials Control		
Governor Baxter School for the Deaf					
Personal Services		(645)			

program, Federal Expenditures Fund.			Provides for the deappropriation of funds through the elimination of one Alcoholism Regional Planning Coordinator position and related All Other.		
Water Quality Control					
Positions - Legislative Count	(-2.0)	(-2.0)			
Personal Services	(44,589)	(73,022)			
Provides for the deappropriation of funds through the elimination of one Clerk Typist III position and one Environmental Specialist II position.			Driver Education and Evaluation Program - Substance Abuse		
			Positions - Legislative Count	(-2.0)	
			Personal Services	(114,489)	
			All Other	(3,000)	
DEPARTMENT OF ENVIRONMENTAL PROTECTION			TOTAL		(117,489)
TOTAL	(134,922)	(331,104)	Provides for the deappropriation of funds through the transfer of one Substance Abuse Division Supervisor position and one Substance Abuse Program Specialist position to the Office of Substance Abuse account.		
EXECUTIVE DEPARTMENT			Planning Office		
Administration - Executive Governor's Office			Positions - Legislative Count	(-3.0)	(-3.0)
Positions - Legislative Count		(-1.0)	Personal Services	(90,959)	(139,550)
Personal Services	(19,500)	(47,558)	All Other	(48,479)	(49,151)
Provides for the deappropriation of funds from the elimination of one position resulting from the Governor's Office productivity initiative and salary savings in fiscal year 1995-96.			Capital Expenditures	(5,491)	
			TOTAL	(144,929)	(188,701)
Driver Education and Evaluation Program - Substance Abuse			Provides for the deappropriation of funds through the elimination of 3 Planner II positions and related expenses.		
All Other		(14,240)	Office of Substance Abuse		
Provides for the deappropriation of funds through the elimination of rent expense as a result of the office relocating to state-owned office space as reflected in the plan submitted to the Productivity Realization Task Force and approved by the Governor.			All Other		(42,720)
Driver Education and Evaluation Program - Substance Abuse			Provides for the deappropriation of funds through the elimination of rent expense as a result of the relocation of the office from leased space to state-owned space as reflected in the plan submitted to the Productivity Realization Task Force and approved by the Governor.		
Positions - Legislative Count	(-1.0)	(-1.0)	Office of Substance Abuse		
Personal Services	(11,693)	(47,674)	Positions - Legislative Count	(-4.0)	(-6.0)
All Other	(750)	(1,500)	Personal Services	(22,683)	(227,954)
TOTAL	(12,443)	(49,174)	All Other	(2,500)	(9,000)

TOTAL	(25,183)	(236,954)	from the elimination of one Senior Nosologist position, one Clerk Typist II position and one Vital Statistics Field Agent position and the transfer of one Clerk Typist II position to the Administration - Income Maintenance program and related All Other.
Provides for the deappropriation of funds through the elimination of one Personnel Assistant position, one Director Fiscal Operations position, one Education Specialist II position, one Clerk Stenographer III position, the transfer of one Clerk Typist II position to the Bureau of Motor Vehicles within the Department of the Secretary of State and the transfer of one Data Control Clerk position to the Department of Administrative and Financial Services as reflected in a plan submitted to the Productivity Realization Task Force and approved by the Governor.			
Office of Substance Abuse			Administration - Human Services
Positions - Legislative Count	(2.0)		Personal Services (2,500)
Personal Services	114,489		Provides for the deappropriation of funds from the unused unemployment costs derived through the transfer of one Clerk Typist II position in this account.
All Other	3,000		Administration - Human Services
TOTAL		117,489	Personal Services (2,500)
Provides for the appropriation of funds for the transfer of one Substance Abuse Division Supervisor position and one Substance Abuse Program Specialist position from the Driver Education and Evaluation Program.			Provides for the deappropriation of funds from unemployment compensation savings for fiscal year 1995-96 terminations as of January 10, 1996.
EXECUTIVE DEPARTMENT TOTAL	(202,055)	(579,347)	Administration - Regional - Human Services
HUMAN SERVICES, DEPARTMENT OF			Positions - Legislative Count (96.0)
Administration - Human Services			Personal Services 2,733,098
Positions - Legislative Count	(-4.0)	(-4.0)	Provides for the appropriation of funds from the transfer of clerical positions into the Regional Clerical Pool, which includes one Clerk Typist I position, 6 part-time and 86 full-time Clerk Typist II positions, 4 Clerk Typist III positions, one Clerk IV position and one Human Services Aide III position.
Personal Services	(35,150)	(120,398)	Administration - Income Maintenance
All Other	(3,750)	(6,000)	Personal Services (9,688)
TOTAL	(38,900)	(126,398)	Provides for the deappropriation of funds

from the salary savings derived through the transfer of one Clerk Typist II position from the Bureau of Elder and Adult Services and the elimination of one Clerk Typist II position in this account.

Administration - Income Maintenance

Personal Services (6,474)

Provides for the deappropriation of funds from the salary savings derived through the transfer of one Clerk Stenographer III position from the Department of Education and the elimination of one Clerk Typist III position in this account.

Administration - Income Maintenance

Personal Services (11,577)

Provides for the deappropriation of funds from the salary savings derived through the transfer of one Clerk Typist III position from the Department of Education and the elimination of one Clerk Typist III position in this account.

Administration - Income Maintenance

Personal Services (5,500)

Provides for the deappropriation of funds from unemployment compensation savings for fiscal year 1995-96 terminations as of January 10, 1996.

Administration - Social Services

Positions - Legislative Count (-1.0)
Personal Services (28,479)

Provides for the deappropriation of funds to transfer one Clerk

Typist II position into the Regional Clerical Pool.

Administration - Social Services

Personal Services (16,500)

Provides for the deappropriation of funds from unemployment compensation savings for fiscal year 1995-96 terminations as of January 10, 1996.

Elder and Adult Services - Bureau of

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(6,644)	(26,172)
All Other	(750)	(1,500)
TOTAL	(7,394)	(27,672)

Provides for the deappropriation of funds from the transfer of one Clerk Typist II position to the Administration - Income Maintenance program and related All Other.

Elder and Adult Services - Bureau of

Positions - Legislative Count	(-3.0)
Personal Services	(83,708)

Provides for the deappropriation of funds to transfer 3 Clerk Typist II positions into the Regional Clerical Pool.

Elder and Adult Services - Bureau of

Personal Services (2,500)

Provides for the deappropriation of funds from the unused unemployment costs derived through the transfer of one Clerk Typist II position in this account.

Elder and Adult Services - Bureau of

Personal Services (24,500)

Provides for the deappropriation of funds from unemployment

compensation savings for
fiscal year 1995-96
terminations as of January
10, 1996.

Health - Bureau of

Positions - Legislative Count	(-1.0)	(-2.0)
Personal Services	(9,929)	(61,346)
All Other	(1,500)	(3,000)
TOTAL	(11,429)	(64,346)

Provides for the
deappropriation of funds
from the elimination of
one Clerk Typist II
position in fiscal year
1995-96 and fiscal year
1996-97 and one Clerk IV
position in fiscal year
1996-97 only and related
All Other.

Health - Bureau of

Positions - Legislative Count	(-2.5)
Personal Services	(71,197)

Provides for the
deappropriation of funds
to transfer 2 full-time and
one part-time Clerk Typist
II positions into the
Regional Clerical Pool.

Income Maintenance - Regional

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(24,215)	(79,034)
All Other	(3,750)	(4,500)
TOTAL	(27,965)	(83,534)

Provides for the
deappropriation of funds
from the elimination of 3
Clerk Typist II positions
and related All Other.

Income Maintenance - Regional

Positions - Legislative Count	(-44.0)
Personal Services	(1,238,385)

Provides for the
deappropriation of funds
to transfer 42 Clerk Typist
II positions, one Clerk
Typist I position and one
Human Service Aide III
position into the Regional
Clerical Pool.

Income Maintenance - Regional

Personal Services	(5,500)
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Provides for the
deappropriation of funds
from unemployment
compensation savings for
fiscal year 1995-96
terminations as of January
10, 1996.

Medical Care Administration

Positions - Legislative Count	(-6.0)	(-6.0)
Personal Services	(96,547)	(280,289)
All Other	(9,000)	(9,000)
TOTAL	(105,547)	(289,289)

Provides for the
deappropriation of funds
from the elimination of
one Medical Claims
Evaluator position, one
Clerk II position, one
Comprehensive Health
Planner II position, one
Senior Health Care
Financial Analyst
position, one Health
Services Consultant
position and one Health
Services Supervisor
position and related All
Other.

Medical Care Administration

Positions - Legislative Count	(-1.0)
Personal Services	(25,914)

Provides for the
deappropriation of funds
to transfer one Clerk
Typist II position into the
Regional Clerical Pool.

Medical Care Administration

Personal Services	(5,500)
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Provides for the
deappropriation of funds
from unemployment
compensation savings for
fiscal year 1995-96
terminations as of January
10, 1996.

Medical Care Administration

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(37,743)	(38,684)

Provides for the
deappropriation of funds
from the elimination of
one Data Entry Systems
Manager position.

Social Services - Regional

Positions - Legislative Count	(-43.0)
Personal Services	(1,218,103)

Provides for the deappropriation of funds to transfer 2 part-time and 37 full-time Clerk Typist II positions, 4 Clerk Typist III positions and one Clerk IV position into the Regional Clerical Pool.

Social Services - Regional

Personal Services	(22,000)
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Provides for the deappropriation of funds from unemployment compensation savings for fiscal year 1995-96 terminations as of January 10, 1996.

Welfare Employment, Education and Training

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(34,973)	(116,213)
All Other	(1,500)	(3,000)

TOTAL	(36,473)	(119,213)
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Provides for the deappropriation of funds from the elimination of one Income Maintenance Program Manager position and one Social Services Supervisor position and related All Other.

Welfare Employment, Education and Training

Positions - Legislative Count	(-1.5)
Personal Services	(42,717)

Provides for the deappropriation of funds to transfer 3 part-time Clerk Typist II positions into the Regional Clerical Pool.

DEPARTMENT OF HUMAN SERVICES

TOTAL	(380,190)	(724,541)
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INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**Administrative Services - Inland Fisheries and Wildlife**

Personal Services	3,145
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Provides for the appropriation of funds for the reorganization of one Personnel Assistant position to one Personnel Specialist position to more effectively meet the needs of the bureau.

Administrative Services - Inland Fisheries and Wildlife

Positions - Legislative Count	(-1.0)
Personal Services	(44,523)

Provides for the deappropriation of funds from the elimination of one Personnel Officer position due to a realignment of duties as a result of task force recommendations.

Administrative Services - Inland Fisheries and Wildlife

Positions - Legislative Count	(1.0)
Personal Services	34,653
All Other	4,502

TOTAL	39,155
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Provides for the appropriation of funds for one Public Relations Representative position to coordinate the volunteer services program.

Public Information and Education, Division of

Positions - Legislative Count	(-1.0)
Personal Services	(27,748)
All Other	25,677

TOTAL	(2,071)
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Provides for the deappropriation of funds from the elimination of one Public Relations Specialist position and the appropriation of funds for outsourcing, ecotourism and marketing.

Savings Fund Program

All Other	4,294
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Provides for the appropriation of funds to be used to avoid future license fee increases.			courts as a result of the productivity plan.		
DEPARTMENT OF INLAND, FISHERIES AND WILDLIFE TOTAL		<u>-0-</u>	Courts - Supreme, Superior, District and Administrative		
			Positions - Legislative Count	(-4.0)	(-4.0)
			Personal Services	(121,937)	(236,723)
			All Other	(2,914)	(6,000)
JUDICIAL DEPARTMENT			TOTAL	<u>(124,851)</u>	<u>(242,723)</u>
Courts - Supreme, Superior, District and Administrative			Provides for the deappropriation of funds from the elimination of one Senior Court Management Officer position, one Court Reporter position, one Transcriber position, one Court Security Officer position; the downgrading of one Senior Programmer Analyst position to one Programmer Analyst position; one Purchase Manager/Accountant position to one Data Entry Clerk position; one Deputy Budget/Fiscal Officer position to one Budget Officer position; one Deputy State Court Administrator/Fiscal Officer position to one Financial Operations Officer position; and the upgrade of one Court Security Officer position to one Court Security Supervisor position and reductions in All Other as a result of the productivity plan.		
All Other	(32,000)	(80,000)			
Provides for the deappropriation of funds due to the reduction in size of both the grand jury and the traverse jury pool as a result of the productivity plan.					
Courts - Supreme, Superior, District and Administrative					
All Other	(13,033)	(39,100)			
Provides for the deappropriation of funds from the elimination of a contractual Court Security Supervisor position as a result of the productivity plan.					
Courts - Supreme, Superior, District and Administrative					
All Other	(18,000)	(45,000)			
Provides for the deappropriation of funds from the reduction in travel as a result of the productivity plan.					
Courts - Supreme, Superior, District and Administrative			JUDICIAL DEPARTMENT TOTAL	<u>(294,168)</u>	<u>(710,906)</u>
All Other	(85,000)	(253,000)	LABOR, DEPARTMENT OF Administration - Labor		
Provides for the deappropriation of funds to reflect the dedication of the mediation fee as a result of the productivity plan.			Personal Services	8,620	55,819
Courts - Supreme, Superior, District and Administrative			Provides for the appropriation of funds for the General Fund proportionate share of position actions as a result of recommendations of the Productivity Realization Task Force.		
All Other	(21,284)	(51,083)	Administration - Bureau of Labor Standards		
Provides for the deappropriation of funds from the closure of 2					

Positions - Legislative Count	(-2.0)	(-2.0)	Regulation and Enforcement		
Personal Services	(7,314)	(41,800)	Positions - Legislative Count	(-3.0)	(-3.0)
Provides for the deappropriation of funds through the transfer of one Account Clerk II position and one Accountant II position to the Labor - Administration program, Federal Expenditures Fund to implement recommendations of the Productivity Realization Task Force.			Personal Services	(144,849)	(144,972)
Job Training Partnership Program			All Other	(7,500)	(9,000)
Personal Services	(607)	(305)	TOTAL	(152,349)	(153,972)
Provides for the deappropriation of funds through changes in allocation ratios for fiscal year 1995-96 and fiscal year 1996-97.			Provides for the deappropriation of funds through the elimination of 3 Deputy Boiler Elevator Inspector positions to implement recommendations of the Productivity Realization Task Force. This action results in \$124,801 General Fund revenue loss in fiscal year 1996-97.		
Job Training Partnership Program			Regulation and Enforcement		
Personal Services		(1,456)	Personal Services	705	5,492
Provides for the deappropriation of funds associated with the merger of employment and training programs within the Department of Labor.			Provides for the appropriation of funds for the reclassification of one Occupational Safety Engineer position to one Senior Occupational Safety Engineer position to implement recommendations of the Productivity Realization Task Force.		
Occupational Information Coordination			Regulation and Enforcement		
Personal Services	(4,796)	(27,523)	Positions - Legislative Count		(-3.0)
Provides for the deappropriation of funds through the transfer of one Education Specialist III position to the Occupational Information Coordination program, Federal Expenditures Fund and the transfer of one Secretary position from the Occupational Information Coordination program, Federal Expenditures Fund to implement recommendations of the Productivity Realization Task Force.			Personal Services	(53,460)	(102,978)
			Provides for the deappropriation of funds from salary savings generated from one Chief Boiler Elevator Inspector position for fiscal year 1995-96 and the transfer of one Chief Boiler, Elevator Inspector position and 2 Clerk Typist III positions in fiscal year 1996-97 to the Licensing and Enforcement program, Other Special Revenue in the Department of Professional and Financial Regulation to implement recommendations of the Productivity Realization Task Force.		

Regulation and Enforcement

Personal Services (44,696)

Provides for the deappropriation of funds from salary savings generated from a Safety Compliance Specialist position to implement recommendations of the Productivity Realization Task Force.

Services from the Legislature program in accordance with the productivity initiatives set forth in Public Law 1995, chapter 368, Part H.

**LEGISLATURE
TOTAL**

-0-

-0-

LIBRARY, MAINE STATE**Reader and Information
Services - Library****STAR**

Personal Services (3,932) (1,015)

Provides for the deappropriation of funds through changes in allocation ratios for fiscal year 1995-96 and fiscal year 1996-97.

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (7,451) (18,824)

Provides for the deappropriation of funds through the transfer of one Clerk Typist II position to the Department of the Secretary of State effective February 5, 1996.

STAR

Personal Services (12,091)

Provides for the deappropriation of funds associated with the merger of employment and training programs within the Department of Labor.

**MAINE STATE LIBRARY
TOTAL**

(7,451)

(18,824)

**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF****Administration - Mental Health
and Mental Retardation****DEPARTMENT OF LABOR
TOTAL**

(257,829)

(279,829)

Positions - Legislative Count (-17.0) (-18.0)
Personal Services (139,548) (912,218)
All Other (27,000)

LEGISLATURE**Legislature**

Personal Services (543,015) (1,193,706)
All Other (54,302) (119,371)

TOTAL (597,317) (1,313,077)

Provides for the deappropriation and transfer of funds to the Legislative Department-wide program established in Public Law 1995, chapter 368, Part H.

TOTAL (139,548) (939,218)

Provides for the deappropriation of funds through the elimination of 4 Clerk Typist III positions, 2 Field Operations Manager positions, one Crisis Stabilization Program Manager position, one Consent Decree Compliance Coordinator position, 3 Comprehensive Health Planner II positions, one Director, Licensing position, one Director, Public Education position, one Assistant to Associate Commissioner position, one Audit Manager position, one Auditor III position and one Director,

Legislature Branchwide

Personal Services 543,015 1,193,706
All Other 54,302 119,371

TOTAL 597,317 1,313,077

Provides for the appropriation of funds through the transfer of All Other and Personal

Research and Quality Assurance position in fiscal years 1995-96 and 1996-97 and one Director, Bureau of Children with Special Needs position in fiscal year 1996-97 pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. This will result in a loss in General Fund revenue in fiscal year 1996-97 of \$183,036.

TOTAL	1,350	(52,198)
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Provides for the deappropriation of funds through the elimination of one Comprehensive Health Planner II position and the appropriation of funds in fiscal year 1995-96 due to separation costs pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Administration - Mental Health and Mental Retardation

Positions - Legislative Count	(14.0)	(14.0)
Personal Services	138,293	726,361
All Other		21,000
TOTAL	138,293	747,361

Provides for the appropriation of funds for the establishment of 2 Consumer Advocate positions, 3 Program/Contract Specialist positions, 3 Regional Service Manager positions, one Facilities Operation Manager position, one Mental Health Program Team Manager position, one Mental Retardation Team Manager position, one Children's Services Program Manager position, one Director, Management Information Systems position and one Director, Quality Assurance position pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. This will result in an increase in General Fund revenue of \$138,912 in fiscal year 1996-97.

Office of Advocacy - Mental Health and Mental Retardation

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	1,350	(50,698)
All Other		(1,500)

Office of Advocacy - Mental Health and Mental Retardation

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	6,426	45,519
All Other		1,500
TOTAL	6,426	47,019

Provides for the appropriation of funds for the establishment of one Advocate position pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Bangor Mental Health Institute

Positions - Legislative Count	(-5.0)	(-5.0)
Personal Services	(47,961)	(176,755)
All Other		(7,500)
TOTAL	(47,961)	(184,255)

Provides for the deappropriation of funds through the elimination of 3 Mental Health Worker II positions, one part-time Baker I position, one Laundry Worker I position and one part-time Physician III position pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Bath Children's Home

Positions - Legislative Count	(-18.0)
Personal Services	(583,591)
All Other	(108,798)

TOTAL		(692,389)	the plans submitted to the Productivity Realization Task Force and approved by the Governor. Headcount is in Bangor Mental Health Institute's Other Special Revenue account.		
Provides for the deappropriation of funds through the privatization of the Bath Children's Home pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. This will result in a loss of General Fund revenue of \$80,000 in fiscal year 1996-97.					
Consent Decree Reinvestment Program - Mental Health			Elizabeth Levinson Center		
All Other	416,564	543,677	Positions - Legislative Count	(-1.0)	(-1.0)
Provides for the appropriation of funds to provide community services mandated by the Augusta Mental Health Institute Consent Decree pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.			Personal Services	(30,264)	(30,639)
			All Other		(1,500)
			TOTAL	(30,264)	(32,139)
Disproportionate Share - Augusta Mental Health Institute			Provides for the deappropriation of funds through the elimination of one Custodial Worker II position pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.		
Personal Services	(298,704)	(406,278)	Mental Health Services - Child Medicaid		
All Other		(13,205)	All Other	105,022	394,790
TOTAL	(298,704)	(419,483)	Provides for the appropriation of funds to provide services for homeless, high-risk and difficult-to-serve adolescents pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.		
Provides for the deappropriation of funds through the elimination of positions pursuant to the plans submitted to the Productivity Realization Task Force and approved by the Governor. Headcount is in the Augusta Mental Health Institute's Other Special Revenue account.			Mental Health Services - Child Medicaid		
Disproportionate Share - Bangor Mental Health Institute			All Other		508,798
Personal Services	(203,786)	(520,097)	Provides for the appropriation of state matching funds due to the privatizing of Bath Children's Home pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.		
All Other		(21,183)	Mental Health Services - Children		
TOTAL	(203,786)	(541,280)	Positions - Legislative Count	(-7.0)	(-7.0)
Provides for the deappropriation of funds due to the elimination of 38.5 positions pursuant to			Personal Services	(246,441)	(354,385)
			All Other		(10,500)
			TOTAL	(246,441)	(364,885)

Provides for the deappropriation of funds through the elimination of 3 Mental Health Program Coordinator positions, 2 Bureau of Children with Special Needs Regional Supervisor positions, one Comprehensive Health Planner I position and one Physical Therapist II position pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Mental Health Services - Children

All Other	35,000	131,596
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Provides for the appropriation of funds to provide services for homeless, high-risk and difficult-to-serve adolescents pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Mental Health Services - Community

Positions - Legislative Count	(8.0)	(8.0)
Personal Services	57,688	299,975
All Other		12,000
TOTAL	57,688	311,975

Provides for the appropriation of funds for the establishment of 5 Crisis Stabilization Worker positions and 3 Mental Health Program Team Leader positions pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor.

Mental Retardation Services - Community

Positions - Legislative Count	(29.0)	(29.0)
Personal Services	181,609	944,365
All Other		43,500
TOTAL	181,609	987,865

Provides for the appropriation of funds for the establishment of 3 Mental Retardation Program Team Leader positions, 3 Crisis Prevention Leader positions, 3 Crisis Prevention Worker positions and 20 Individual Support Coordinator positions pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. This will result in an increase in General Fund revenue of \$531,831 in fiscal year 1996-97.

Mental Retardation Services - Community

Positions - Legislative Count	(-7.5)	(-8.5)
Personal Services	(23,121)	(414,584)
All Other		(12,750)
TOTAL	(23,121)	(427,334)

Provides for the deappropriation of funds through the elimination of 4 Mental Retardation Regional Manager positions, one full-time and one part-time Clerk Typist II positions, one Account Clerk I position and one Mental Health Worker II position in fiscal years 1995-96 and 1996-97 and one Director, Division of Mental Retardation position in fiscal year 1996-97 pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. This will result in a loss of General Fund revenue of \$246,086 in fiscal year 1996-97.

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

TOTAL	(47,873)	19,900
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MUSEUM, MAINE STATE**Administration - Museum**

Positions - Legislative Count	(-0.5)	(-0.5)
Personal Services	(5,799)	(16,412)

Provides for the deappropriation of funds from the elimination of 1/2 Museum Technician I position effective February 9, 1996.

Exhibit Design and Preparation - Museum

Positions - Legislative Count	(-0.5)	(-0.5)
Personal Services	(6,974)	(19,777)

Provides for the deappropriation of funds from the elimination of 1/2 Museum Technician II position effective February 9, 1996.

MAINE STATE MUSEUM

TOTAL	(12,773)	(36,189)
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PUBLIC SAFETY, DEPARTMENT OF**Administration - Public Safety**

Positions - Legislative Count	(8.0)
Personal Services	326,147
All Other	31,793
TOTAL	357,940

Provides for the appropriation of funds through the transfer from the Bureau of Liquor Enforcement to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety one Public Safety Licensing and Inspection Supervisor position, 3 Public Safety Inspector I positions, one Clerk III position, one Liquor Tax Auditor position, one Account Clerk II position and one Account Clerk I position and necessary All Other associated with the licensing function.

Capitol Security - Bureau of

Positions - Legislative Count	(-1.0)	(-1.0)
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Personal Services	(17,079)	(34,060)
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Provides for the deappropriation of funds through the elimination of one part-time Capitol Security Officer position, reducing one Clerk Typist II position to part time, reclassification of one Capitol Security Sergeant position to one Capitol Security Officer position and one vacant Capitol Security Officer position to one Watchperson position.

Criminal Justice Academy

Positions - Legislative Count	(-3.0)	(-3.0)
Personal Services	(40,316)	(100,170)
All Other	25,800	51,600

TOTAL	(14,516)	(48,570)
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Provides for the deappropriation of funds from salary savings and through the elimination of one Building Maintenance Supervisor position, one Maintenance Mechanic position and one Laborer II position and provides additional All Other for the contracting of maintenance services.

Drug Enforcement Agency

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(7,223)	(32,633)

Provides for the deappropriation of funds through the transfer of one Clerk Typist III position to the Bureau of State Police.

Liquor Enforcement

Positions - Legislative Count	(-10.0)
Personal Services	(371,524)
All Other	(31,793)

TOTAL	(403,317)
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Provides for the deappropriation of funds through the elimination of 2 Clerk Typist III positions, transfer and reclassification of one Liquor Enforcement

Licensing Manager position to one Public Safety Licensing and Inspection Supervisor position, 3 Liquor License Examiner positions to 3 Public Safety Inspector I positions, the transfer of one Clerk III position, one Liquor Tax Auditor position, one Account Clerk II position and one Account Clerk I position and All Other associated with the licensing function to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.

State Police

Positions - Legislative Count	(1.0)	
Personal Services	(225,997)	(35,741)

Provides for the deappropriation of funds from salary savings and through the elimination of one Clerk Typist II position, one Planning and Research Associate I position, one State Police Captain position, classification exchange of 2 State Police Captain positions for 2 State Police Major positions, establishment of 3 Police Communication Operator positions through the elimination of overtime expense, transfer of one Clerk Typist III position from the Maine Drug Enforcement Agency and an additional elimination of one Storekeeper II position in fiscal year 1996-97.

DEPARTMENT OF PUBLIC SAFETY
TOTAL

(264,815)	(196,381)
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SECRETARY OF STATE,
DEPARTMENT OF THE

Bureau of Administrative Services and Corporations

Personal Services	(2,956)
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Provides for the deappropriation of funds from the salary savings derived through the transfer of one Clerk Typist II position from the Maine State Library and the elimination of one Clerk Typist II position from this account.

Bureau of Administrative Services and Corporations

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(14,173)	(54,902)

Provides for the deappropriation of funds from the elimination of 2 Clerk Typist II positions as a result of the department's productivity initiatives.

Elections and Commissions

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(5,418)	(5,418)

Provides for the deappropriation of funds from the elimination of one seasonal Clerk Typist II position.

DEPARTMENT OF THE SECRETARY OF STATE
TOTAL

(22,547)	(60,320)
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SECTION**TOTAL APPROPRIATIONS**

711,912	871,758
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Sec. A-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
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ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF

Executive Branch Departments and Independent Agencies -
Statewide

Personal Services	6,715	14,793
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Provides for the allocation of funds from the unfunded liability portion of the Personal Services savings achieved through the productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services	1,726	7,084
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Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through the productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

8,441	21,877
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**PUBLIC SAFETY,
DEPARTMENT OF****Administration - Public Safety**

Positions - Legislative Count	(1.0)
Personal Services	32,850
All Other	47,440

TOTAL	80,290
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Provides for the allocation of funds through the transfer of one Clerk Typist III position from the Motor Vehicle Inspection Program to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.

**Highway Safety - Department of
Public Safety**

Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	(8,870)	(76,106)

Provides for the deallocation of funds through the elimination of one Highway Safety Coordinator position and one Public Relations Specialist position, and the reclassification of one Highway Safety Program Manager position to one Senior Contract Manager position.

Motor Vehicle Inspection

Positions - Legislative Count	(-2.0)
Personal Services	(61,816)
All Other	(47,440)

TOTAL

(109,256)

Provides for the deallocation of funds through the elimination of one Account Clerk II position and the transfer of one Clerk Typist III position to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.

State Police

Personal Services	(102,931)	(142,966)
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Provides for the deallocation of funds through the elimination of one Clerk Typist II position, one Planning and Research Associate I position, one State Police Captain position, classification exchange of 2 State Police Captain positions to 2 State Police Major positions, establishment of 3 Police Communication Operator positions through the elimination of overtime expenses, transfer of one Clerk Typist III position from the Maine Drug Enforcement Agency, and an additional elimination of one Storekeeper II position in fiscal year 1996-97.

**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

(111,801)	(248,038)
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**SECRETARY OF STATE,
DEPARTMENT OF THE****Administration - Motor Vehicles**

Personal Services	(789)
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Provides for the deallocation of funds from the transfer of one Clerk Typist II position from the Office of Substance Abuse and the elimination of one Clerk Typist II position in this account.

**DEPARTMENT OF THE
SECRETARY OF STATE
TOTAL**

(789)

SECTION

TOTAL ALLOCATIONS

(104,149)

(226,161)

Sec. A-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**

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services

227,420

355,105

Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services

58,456

170,050

Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through the productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

285,876

525,155

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

**Office of Agricultural, Natural
and Rural Resources**

All Other

85,000

86,445

Provides for the allocation of funds from the transfer of the voluntary compliance program from Agricultural Production to Office of Agricultural, Natural and Rural Resources in accordance

with approved
restructuring plans.

Agricultural Production

All Other

(85,000)

(86,445)

Provides for the deallocation of funds from the transfer of the voluntary compliance program from Agricultural Production to Office of Agricultural, Natural and Rural Resources in accordance with approved restructuring plans.

Agricultural Production

Personal Services

(91,048)

(97,626)

All Other

(78,089)

(79,953)

TOTAL

(169,137)

(177,579)

Provides for the deallocation of funds from the transfer of the Potato Virus Y-N program from Agricultural Production to the new Division of Plant Industry in accordance with approved restructuring plans.

Division of Plant Industry

Personal Services

91,048

97,626

All Other

78,089

79,953

TOTAL

169,137

177,579

Provides for the allocation of funds from the transfer of the Potato Virus Y-N program from Agricultural Production to the Division of Plant Industry in accordance with approved restructuring plans.

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

-0-

-0-

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

Energy Resources - Office of

Positions - Other Count

(-3.0)

(-3.0)

Personal Services

(51,837)

(108,797)

Provides for the deallocation of funds from the elimination of one Clerk Typist III position and one Energy Conservation Specialist position, and the transfer of one Energy Conservation Specialist position to the Department of Environmental Protection as part of the Productivity Realization Task Force plan.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT**

	(51,837)	(108,797)
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**EDUCATION, DEPARTMENT
OF**

Administrative Services Unit

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(48,227)	(52,227)

Provides for the deallocation of funds through the elimination of one Equal Employment Opportunity Coordinator position.

Administrative Services Unit

All Other		(20,000)
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Provides for the transfer of allocation to the Leadership program.

Administrative Services Unit

Positions - Other Count	(-1.0)	
Personal Services	(48,999)	
All Other	(58,518)	
Capital Expenditures	(3,200)	

TOTAL		(110,717)
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Provides for the transfer of allocation and one position to the Leadership program.

Administrative Services Unit

Positions - Other Count	(-3.5)	
Personal Services	(142,853)	
All Other	(48,916)	

TOTAL		(191,769)
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Provides for the transfer of allocation and positions to the Leadership program.

Division of Adult Education

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(3,987)	(26,190)

Provides for the deallocation of funds through the elimination of one Clerk Stenographer II position.

Division of Adult Education

All Other		(463,928)
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Provides for the transfer of allocation to the Learning Systems program.

Division of Adult Education

Positions - Other Count		(-1.0)
Personal Services		(63,805)
All Other		(1,187,973)
Capital Expenditures		(4,000)

TOTAL		(1,255,778)
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Provides for the transfer of allocation and one position to the Learning Systems program.

Division of Applied Technology

Positions - Other Count	(-0.5)	(-0.5)
Personal Services	(27,368)	(27,419)

Provides for the deallocation of funds through the elimination of 1/2 of one Education Specialist II position.

Division of Applied Technology

Positions - Other Count		(-12.0)
Personal Services		(530,154)
All Other		(5,317,772)
Capital Expenditures		(10,150)

TOTAL		(5,858,076)
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Provides for the transfer of allocation and positions to the Learning Systems program.

**Blind and Visually Impaired -
Division for the**

Positions - Other Count	(-1.5)	(-1.5)
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Personal Services	(23,221)	(50,613)	Provides for the transfer of allocation and one position to the Learning Systems program.	
Provides for the deallocation of funds through the elimination of one Accountant II position and one half-time Rehabilitation Consultant position to implement recommendations of the Productivity Realization Task Force.				
Division of Finance			Division of Instruction	
Positions - Other Count		(-3.0)	All Other	(63,123)
Personal Services		(96,349)	Provides for the transfer of allocation to the Regional Services program.	
All Other		(6,312)		
TOTAL		(102,661)	Division of Instruction	
Provides for the transfer of allocation and positions to the Support Systems program.			All Other	(112,605)
Division of Higher Education			Provides for the transfer of allocation to the Regional Services program.	
Positions - Other Count	(-3.0)	(-3.0)	Division of Instruction	
Personal Services	(66,541)	(121,269)	Positions - Other Count	(-1.0)
All Other		(25,525)	Personal Services	(52,299)
TOTAL	(66,541)	(146,794)	All Other	(2,446,376)
Provides for the deallocation of funds through the elimination of one Education Specialist III position, one Education Specialist II position, and one Clerk Stenographer II position.			Capital Expenditures	(18,000)
Division of Higher Education			TOTAL	(2,516,675)
All Other		(390,319)	Provides for the transfer of allocation and one position to the Learning Systems program.	
Provides for the transfer of allocation to the Regional Services program.			Division of Instruction	
Division of Higher Education			All Other	(33,287)
All Other		(90,000)	Provides for the transfer of allocation to the Regional Services program.	
Provides for the transfer of allocation to the Support Systems program.			Division of Instruction	
Division of Instruction			All Other	(998,948)
Positions - Other Count		(-1.0)	Provides for the transfer of allocation to the Regional Services program.	
Personal Services		(42,831)	Division of Instruction	
All Other		(56,825)	All Other	(99,922)
TOTAL		(99,656)	Provides for the transfer of allocation to the Learning Systems program.	
			Division of Instruction	
			Positions - Other Count	(-2.0)
			Personal Services	(95,979)
			All Other	(191,840)

TOTAL	(287,819)	Learning Systems	
Provides for the transfer of allocation and positions to the Learning System program.		Positions - Other Count	(1.0)
		Personal Services	32,025
		All Other	2,465,894
		TOTAL	2,497,919
Leadership		Provides for the transfer of allocation and one position from the Preschool Handicapped program.	
Positions - Other Count	(3.5)		
Personal Services	142,853		
All Other	48,916		
TOTAL	191,769	Learning Systems	
Provides for the transfer of allocation and positions from the Administrative Services Unit.		Positions - Other Count	(1.0)
		Personal Services	33,012
		All Other	966,090
		TOTAL	999,102
Leadership		Provides for the transfer of allocation and one position from the Preschool Handicapped program.	
All Other	20,000		
Provides for the transfer of allocation from the Administrative Services Unit.		Learning Systems	
		All Other	2,625,000
Leadership		Provides for the transfer of allocation from the School to Work Transition program.	
Positions - Other Count	(1.0)		
Personal Services	48,999		
All Other	58,518		
Capital Expenditures	3,200		
TOTAL	110,717	Learning Systems	
Provides for the transfer of allocation and positions from the Administrative Services Unit.		Positions - Other Count	(15.0)
		Personal Services	752,293
		All Other	10,547,969
		TOTAL	11,300,262
Learning Systems		Provides for the transfer of allocation and positions from the Division of Special Services.	
Positions - Other Count	(1.0)		
Personal Services	63,805		
All Other	1,187,973		
Capital Expenditures	4,000		
TOTAL	1,255,778	Learning Systems	
Provides for the transfer of allocation and one position from the Division of Adult Education.		Positions - Other Count	(13.0)
		Personal Services	540,025
		All Other	28,684,398
		Capital Expenditures	2,850
		TOTAL	29,227,273
Learning Systems		Provides for the transfer of allocation and positions from the Division of Special Services.	
All Other	463,928		
Provides for the transfer of allocation from the Division of Adult Education program.		Learning Systems	
		Positions - Other Count	(1.0)
		Personal Services	45,194

All Other	91,102	Learning Systems	
TOTAL	136,296	Positions - Other Count	(12.0)
Provides for the transfer of allocation and one position from the Division of Special Services.		Personal Services	530,154
		All Other	5,317,772
		Capital Expenditures	10,150
		TOTAL	5,858,076
Learning Systems		Provides for the transfer of allocation and positions from the Division of Applied Technology.	
Personal Services	8,782		
All Other	538,315	Learning Systems	
TOTAL	547,097	Positions - Other Count	(1.0)
Provides for the transfer of allocation from the Division of Special Services.		Personal Services	42,831
		All Other	56,825
		TOTAL	99,656
Learning Systems		Provides for the transfer of allocation and one position from the Division of Instruction.	
Positions - Other Count	(1.0)		
Personal Services	63,089	Learning Systems	
All Other	753,049	Positions - Other Count	(2.0)
TOTAL	816,138	Personal Services	95,979
Provides for the transfer of allocation and one position from the Division of Special Services.		All Other	191,840
		TOTAL	287,819
Learning Systems		Provides for the transfer of allocation and positions from the Division of Instruction.	
All Other	281,332	Learning Systems	
Provides for the transfer of allocation from the Division of Special Services.		All Other	99,922
		Provides for the transfer of allocation from the Division of Instruction.	
Learning Systems		Learning Systems	
Positions - Other Count	(1.0)	Positions - Other Count	(1.0)
Personal Services	46,963	Personal Services	52,299
All Other	1,550	All Other	2,446,376
TOTAL	48,513	Capital Expenditures	18,000
Provides for the transfer of allocation and one position from the Division of Special Services.		TOTAL	2,516,675
Learning Systems		Provides for the transfer of allocation and one position from the Division of Instruction.	
Positions - Other Count	(3.0)	Management Information Systems	
Personal Services	162,292	All Other	20,660
All Other	68,480		
TOTAL	230,772		
Provides for the transfer of allocation and positions from the Division of Special Services.			

Provides for the transfer of allocation from the Division of Management Information.		Provides for the transfer of allocation from the Division of Higher Education.	
Division of Management Information		Regional Services	
All Other	(20,660)	All Other	63,123
Provides for the transfer of allocation to the Management Information Systems program.		Provides for the transfer of allocation from the Division of Instruction.	
Preschool Handicapped		Rehabilitation Services	
Positions - Other Count	(-1.0)	Positions - Other Count	(-8.0)
Personal Services	(32,025)	Personal Services	(243,775)
All Other	(2,465,894)	Provides for the deallocation of funds through the elimination of one Rehabilitation Consultant position, one Rehabilitation Counselor II position, one Caseworker Supervisor position, 3 Account Clerk II positions, one Clerk Typist III position and one Clerk II position in fiscal years 1995-96 and 1996-97 and one Regional Director Rehabilitation Services position and one Rehabilitation Services Manager position in fiscal year 1996-97 to implement recommendations of the Productivity Realization Task Force.	(-10.0)
TOTAL	(2,497,919)		(318,945)
Provides for the transfer of allocation and one position to the Learning Systems program.			
Preschool Handicapped			
Positions - Other Count	(-1.0)		
Personal Services	(33,012)		
All Other	(966,090)		
TOTAL	(999,102)		
Provides for the transfer of allocation and one position to the Learning Systems program.			
Regional Services		Division of School Business Services	
All Other	998,948	Positions - Other Count	(-4.0)
Provides for the transfer of allocation from the Division of Instruction.		Personal Services	(110,602)
Regional Services		Provides for the deallocation of funds through the elimination of one Clerk Stenographer III position, one Sanitarian II position, and 2 Nutritionist positions.	(-4.0)
All Other	33,287		(106,825)
Provides for the transfer of allocation from the Division of Instruction.			
Regional Services		Division of School Business Services	
All Other	112,605	Positions - Other Count	(-7.0)
Provides for the transfer of allocation from the Division of Instruction.		Personal Services	(317,330)
Regional Services		All Other	(20,236,898)
All Other	390,319	Capital Expenditures	(15,500)
		TOTAL	(20,569,728)

Provides for the transfer of allocation and positions to the Support Systems program.			All Other	(538,315)
			TOTAL	(547,097)
School to Work Transition			Provides for the transfer of allocation to the Learning Systems program.	
All Other	(2,625,000)			
Provides for the transfer of allocation to the Learning Systems program.			Division of Special Services	
			Positions - Other Count	(-1.0) (-1.0)
			Personal Services	(46,651) (44,552)
Division of Special Services			Provides for the deallocation of funds through the elimination of one Education Specialist III position.	
Positions - Other Count	(-1.0)	(-3.0)		
Personal Services	(43,433)	(56,354)		
Provides for the deallocation of funds through the elimination of one Education Specialist II position effective on July 1, 1995; one Clerk Typist II position on September 30, 1996; and one Secretary position on December 30, 1996.			Division of Special Services	
			Positions - Other Count	(-1.0) (-2.0)
			Personal Services	(43,433) (55,004)
Division of Special Services			Provides for the deallocation of funds through the elimination of one Education Specialist II position effective July 1, 1995 and one Clerk Stenographer II position effective September 30, 1996.	
Positions - Other Count	(-1.0)			
Personal Services	(46,963)			
All Other	(1,550)		Division of Special Services	
TOTAL	(48,513)		Positions - Other Count	(-1.0) (-1.0)
Provides for the transfer of allocation and one position to the Learning Systems program.			Personal Services	(77,869) (76,116)
Division of Special Services			Provides for the deallocation of funds through the elimination of one Director of Compensatory Education position and a portion of one Clerk Typist II position.	
All Other	(281,332)		Division of Special Services	
Provides for the transfer of allocation to the Learning Systems program.			Positions - Other Count	(-15.0)
Division of Special Services			Personal Services	(752,293)
Positions - Other Count	(-1.0)		All Other	(10,547,969)
Personal Services	(45,194)		TOTAL	(11,300,262)
All Other	(91,102)		Provides for the transfer of allocation and positions to the Learning Systems program.	
TOTAL	(136,296)		Division of Special Services	
Provides for the transfer of allocation and one position to the Learning Systems program.			Positions - Other Count	(-13.0)
Division of Special Services			Personal Services	(28,684,398)
Personal Services	(8,782)		Capital Expenditures	(2,850)

TOTAL	(29,227,273)	from the Division of School Business Services.		
Provides for the transfer of allocation and positions to the Learning Systems program.				
Division of Special Services		DEPARTMENT OF EDUCATION		
Positions - Other Count	(-3.0)	TOTAL	(735,107)	(961,039)
Personal Services	(162,292)	ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
All Other	(68,480)	Air Quality Control		
TOTAL	(230,772)	Positions - Other Count		(-4.5)
Provides for the transfer of allocation and positions to the Learning Systems program.		Personal Services		(189,555)
Division of Special Services		All Other		(3,488)
Positions - Other Count	(-1.0)	TOTAL		(193,043)
Personal Services	(63,089)	Provides for the deallocation of funds from the elimination of one Clerk Typist III position, one Environmental Specialist III position and 2.5 Environmental Specialist II positions.		
All Other	(753,049)	Lake Restoration and Protection Fund		
TOTAL	(816,138)	Positions - Other Count		(-2.5)
Provides for the transfer of allocation and positions to the Learning Systems program.		Personal Services		(105,571)
Support Systems		All Other		(1,943)
All Other	90,000	TOTAL		(107,514)
Provides for the transfer of allocation from the Division of Higher Education.		Provides for the deallocation of funds from the elimination of one Environmental Specialist II position, one part-time Biologist Aide position and one Biologist I position.		
Support Systems		Land Quality Control		
Positions - Other Count	(3.0)	Positions - Other Count		(-1.0)
Personal Services	96,349	Personal Services		(57,531)
All Other	6,312	All Other		(1,059)
TOTAL	102,661	TOTAL		(58,590)
Provides for the transfer of allocation and positions from the Division of Finance.		Provides for the deallocation of funds from the elimination of one Environmental Specialist IV position.		
Support Systems		Land Quality Control		
Positions - Other Count	(7.0)	Personal Services	4,167	(1,817)
Personal Services	317,330	Provides for the allocation of funds through the elimination of one		
All Other	20,236,898			
Capital Expenditures	15,500			
TOTAL	20,569,728			

Administrative Assistant position and the transfer in of one Environmental Specialist II position from the Land Quality Control program, General Fund.

Oil and Hazardous Materials Control

Personal Services 479 1,726

Provides for the allocation of funds for the reclassification of one Clerk Typist III position to one Staff Development Specialist II position.

Oil and Hazardous Materials Control

Positions - Other Count (-1.0) (-1.0)
Personal Services (11,020) (37,265)

Provides for the deallocation of funds through the elimination of one Environmental Specialist II position.

Oil and Hazardous Materials Control

Positions - Other Count (1.0) (1.0)
Personal Services 18,906 56,693

Provides for the allocation of funds for the transfer of one Environmental Specialist IV position from the Oil and Hazardous Materials Control program, General Fund.

Oil and Hazardous Materials Control

Positions - Other Count (-1.0) (-1.0)
Personal Services (13,040) (44,358)

Provides for the deallocation of funding through the elimination of one Environmental Specialist III position.

Oil and Hazardous Materials Control

Positions - Other Count (-2.0)
Personal Services (84,914)
All Other (1,562)
TOTAL (86,476)

Provides for the deallocation of funds from the elimination of one Environmental Specialist III position and one Environmental Specialist II position.

Oil and Hazardous Materials Control

Positions - Other Count (-1.0)
Personal Services (48,150)
All Other (1,204)
TOTAL (49,354)

Provides for the deallocation of funds from the elimination of one Environmental Specialist III position.

Water Quality Control

Positions - Other Count (-3.0)
Personal Services (122,977)
All Other (2,263)
TOTAL (125,240)

Provides for the deallocation of funds from the elimination of one Environmental Specialist IV position, one Environmental Specialist III position, and one Biologist Aide position.

DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL

(508) (645,238)

HUMAN SERVICES, DEPARTMENT OF

Administration - Human Services

Positions - Other Count (-1.0) (-3.0)
Personal Services (8,729) (82,706)
All Other (750) (4,500)
TOTAL (9,479) (87,206)

Provides for the deallocation of funds from the elimination of one Personnel and Payroll Technician position in fiscal year 1995-96 and fiscal year 1996-97; and 2 Data Entry Specialist positions in fiscal year

1996-97 only, and related
All Other.

**Administration - Regional -
Human Services**

Positions - Other Count (87.5)
Personal Services 2,450,778

Provides for the allocation of funds from the transfer of clerical positions into the Regional Clerical Pool, which includes one Clerk Typist I position, one part-time and 75 full-time Clerk Typist II positions, 7 Clerk Typist III positions, 3 Clerk Stenographer II positions, and one Human Services Aide III position.

**Administration - Income
Maintenance**

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(34,859)	(111,267)
All Other	(3,750)	(4,500)
TOTAL	(38,609)	(115,767)

Provides for the deallocation of funds from the elimination of one Paralegal Assistant position, one Hearings Examiner position, one Clerk Typist II position, and related All Other.

**Administration - Income
Maintenance**

Positions - Other Count	(-16.0)
Personal Services	(516,767)

Provides for the deallocation of funds to transfer 11 Clerk Typist II positions and 5 Clerk Typist III positions into the Regional Clerical Pool.

**Administration - Income
Maintenance**

Personal Services	(13,166)
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Provides for the deallocation of funds from the salary savings derived through the transfer of one Clerk Typist II position from

Administration - Human Services and the elimination of one Clerk Typist II position in this account.

**Administration - Income
Maintenance**

Personal Services	(5,857)
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Provides for the deallocation of funds from the salary savings derived through the transfer of one Clerk Stenographer III position from the Department of Education and the elimination of one Clerk Typist III position in this account.

**Administration - Income
Maintenance**

Personal Services	(6,702)
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Provides for the deallocation of funds from the salary savings derived through the transfer of one Clerk Stenographer III position from the Department of Education and the elimination of one Clerk Typist III position in this account.

**Administration - Income
Maintenance**

Personal Services	(6,702)
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Provides for the deallocation of funds from the salary savings derived through the transfer of one Clerk Stenographer III position from the Department of Education and the elimination of one Human Services Aide III position in this account.

Administration - Social Services

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(12,050)	(36,279)
All Other	(1,500)	(1,500)
TOTAL	(13,550)	(37,779)

Provides for the deallocation of funds from the elimination of one Planning and Research

Associate I position, and related All Other.

Aid to Families with Dependent Children - Foster Care

Positions - Other Count	(-2.0)	
Personal Services	(54,296)	

Provides for the deallocation of funds to transfer 2 Clerk Typist II positions into the Regional Clerical Pool.

Child Welfare Services

Positions - Other Count	(-5.0)	
Personal Services	(140,058)	

Provides for the deallocation of funds to transfer 5 Clerk Typist II positions into the Regional Clerical Pool.

Elder and Adult Services - Bureau of

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(39,096)	(118,073)
All Other	(6,000)	(6,000)
TOTAL	(45,096)	(124,073)

Provides for the deallocation of funds from the elimination of 2 part-time Foster Grandparent Program Specialist positions, one Social Service Program Specialist I position, and one Comprehensive Health Planner I position, and related All Other.

Health - Bureau of

Positions - Other Count	(-6.0)	(-6.0)
Personal Services	(69,285)	(222,264)
All Other	(8,250)	(10,500)
TOTAL	(77,535)	(232,764)

Provides for the deallocation of funds from the elimination of one Paralegal Assistant position, 2 part-time Planning and Research Associate I positions, one Word Processing Operator position, one Public Health Educator II position, one Clerk III

position, one Assistant Director, Disease Control position, and related All Other.

Income Maintenance - Regional

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(33,266)	(98,509)
All Other	(4,500)	(4,500)
TOTAL	(37,766)	(103,009)

Provides for the deallocation of funds from the elimination of one Clerk Typist II position, one Clerk Typist III position, and one Income Maintenance Specialist position, and related All Other.

Income Maintenance - Regional

Positions - Other Count	(-55.0)	
Personal Services	(1,481,524)	

Provides for the deallocation of funds to transfer 52 Clerk Typist II positions, 2 Clerk Typist III positions, and one Human Services Aide III position into the Regional Clerical Pool.

Income Maintenance - Regional

Positions - Other Count	(-4.0)	(-4.0)
Personal Services	(42,453)	(169,812)
All Other	(1,500)	(6,000)
TOTAL	(43,953)	(175,812)

Provides for the deallocation of funds for the elimination of 4 Disability Claims Examiner positions and related All Other.

Medical Care Administration

Positions - Other Count	(-9.5)	(-9.5)
Personal Services	(141,071)	(418,132)
All Other	(15,000)	(15,000)
TOTAL	(156,071)	(433,132)

Provides for the deallocation of funds from the elimination of one Health Services Supervisor position, 2 Comprehensive Health

Planner I positions, one full-time and one part-time Comprehensive Health Planner II positions, 3 Health Services Consultant positions, one Clerk Typist III position, one Medical Claims Evaluator position and related All Other.

Medical Care Administration

Positions - Other Count (1.0)
Personal Services (28,389)

Provides for the deallocation of funds to transfer one Clerk Typist II position into the Regional Clerical Pool.

Welfare Employment, Education and Training

Positions - Other Count (-8.5)
Personal Services (229,744)

Provides for the deallocation of funds to transfer one Clerk Typist I position, one part-time and 4 full-time Clerk Typist II positions, and 3 Clerk Stenographer II positions into the Regional Clerical Pool.

DEPARTMENT OF HUMAN SERVICES TOTAL

(454,486) (1,309,542)

LABOR, DEPARTMENT OF**Administration - Labor**

Positions - Other Count (10.0)
Personal Services 64,976 376,443

Provides for the allocation of funds from the transfer of one Director of Administrative Services position, one Chief Accountant position, 2 Accountant III positions, 2 Accountant II positions, one Accountant I position, one Account Clerk II position, one Account Clerk I position and one Assistant Director of Administrative Services position to be reclassified to a Director of Facilities

Management position, from the Employment Security Services program, Federal Expenditures Fund to implement recommendations of the Productivity Realization Task Force.

Administration - Labor

Positions - Other Count (5.0) (5.0)
Personal Services 37,389 200,170

Provides for the allocation of funds from the transfer of one Accountant III position, one Account Clerk II position and one Executive Director - JTPA position to be reclassified to one Executive Director Operations position from the Job Training Partnership Fund program, Federal Expenditures Fund and for the transfer of one Accountant II position and one Account Clerk II position from the Administration - Bureau of Labor Standards program, General Fund to implement recommendations of the Productivity Realization Task Force.

Administration - Labor

Positions - Other Count (3.0) (5.0)
Personal Services 20,111 205,442

Provides for the allocation of funds for the transfer of 2 Accountant I positions and one Account Clerk II position from the 12 County SDA Job Training Partnership program, Federal Expenditures Fund in fiscal year 1995-96 and 1996-97 and the transfer of one Management Analyst II position from the Employment Security Services program, Federal Expenditures Fund and the transfer of one Director of Planning and Program Services position

from the Job Training Partnership Fund program, Federal Expenditures Fund to be reclassified to a Director Grant Management position in fiscal year 1996-97 to implement recommendations of the Productivity Realization Task Force.

Administration - Bureau of Labor Standards

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(41,703)	(43,257)
All Other	(1,500)	(1,500)
TOTAL	(43,203)	(44,757)

Provides for the deallocation of funds through the elimination of one Programmer Analyst position in fiscal year 1995-96 and fiscal year 1996-97 from the Labor Standards Administration Program to implement recommendations from the Productivity Realization Task Force.

Employment Security Services

Positions - Other Count	(-83.5)	(-83.5)
Personal Services	(2,428,129)	(2,881,703)
All Other	(102,000)	(132,000)
TOTAL	(2,530,129)	(3,013,703)

Provides for the deallocation of funds through the elimination of 38 seasonal positions, 3 part-time positions, and 62 full-time positions in fiscal year 1995-96 and fiscal year 1996-97 and associated costs to implement recommendations of the Productivity Realization Task Force. Position detail is on file at the Bureau of the Budget.

Employment Security Services

Positions - Other Count	(-10.0)	(-11.0)
Personal Services	(73,452)	(473,261)

Provides for the deallocation of funds

through the transfer of one Account Clerk I position, one Account Clerk II position, one Accountant I position, 2 Accountant II positions, 2 Accountant III positions, one Chief Accountant position, one Director Administrative Services position and one Assistant Director of Administrative Services position for fiscal year 1995-96 and fiscal year 1996-97 and the transfer of one Management Analyst II position for fiscal year 1996-97 to the Administration - Labor program, Federal Expenditures Fund to implement recommendations of the Productivity Realization Task Force.

Employment Security Services

Personal Services	(152,208)
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Provides for the deallocation of funds associated with the merger of employment and training programs within the Department of Labor.

Job Training Partnership Program

Positions - Other Count	(-3.0)	(-4.0)
Personal Services	(28,507)	(223,243)

Provides for the deallocation of funds through the transfer of one Account Clerk II position, one Accountant III position and one Executive Director - JTPA position in fiscal year 1995-96 and fiscal year 1996-97 and one Director Planning and Program Services position in fiscal year 1996-97 to the Administration - Labor program, Federal Expenditures Fund to implement recommendations of the

Productivity Realization
Task Force.

**Job Training Partnership
Program**

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(10,606)	(62,094)

Provides for the deallocation of funds through the elimination of one Accountant I position and one Accountant II position to implement recommendations of the Productivity Realization Task Force.

**Job Training Partnership
Program**

Positions - Other Count	(4.0)
Personal Services	243,256

Provides for the allocation of funds to establish 4 Center Manager positions in fiscal year 1996-97 in the Job Training Partnership Program, Federal Expenditures Fund to implement recommendations from the Productivity Realization Task Force.

**Job Training Partnership
Program**

Personal Services	79,124
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Provides for the allocation of funds associated with the merger of employment and training programs within the Department of Labor.

**Twelve County SDA - Job
Training Partnership Program**

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(22,191)	(103,485)

Provides for the deallocation of funds through the transfer of one Account Clerk II position and 2 Accountant I positions to the Administration - Labor program, Federal Expenditures Fund to implement recommendations of the

Productivity Realization
Task Force.

**Twelve County SDA - Job
Training Partnership Program**

Positions - Other Count	(-1.5)	(-1.5)
Personal Services	(11,691)	(58,380)

Provides for the deallocation of funds through the elimination of one part-time Account Clerk I position and one Accountant III position to implement recommendations of the Productivity Realization Task Force.

**Twelve County SDA - Job
Training Partnership Program**

Positions - Other Count	(3.0)
Personal Services	201,379

Provides for the allocation of funds to establish 3 Regional Coordinator positions in fiscal year 1996-97 to implement recommendations of the Productivity Realization Task Force.

**Twelve County SDA - Job
Training Partnership Program**

Personal Services	(91,453)
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Provides for the deallocation of funds associated with the merger of employment and training programs within the Department of Labor.

**Occupational Information
Coordination**

Personal Services	4,796	27,523
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Provides for the allocation of funds through the transfer of one Secretary position to the Maine Occupational Information Coordinating Committee program, General Fund and the transfer of one Education Specialist III position from the Maine Occupational Information Coordinating Committee program, General Fund to

implement
recommendations of the
Productivity Realization
Task Force.

**Occupational Information
Coordination**

Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(43,214)	(58,885)

Provides for the
deallocation of funds
through the elimination of
one Executive Secretary
MOICC position to
implement
recommendations of the
Productivity Realization
Task Force.

Regulation and Enforcement

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(89,834)	(91,734)
All Other	(3,000)	(3,000)

TOTAL	(92,834)	(94,734)
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Provides for the
deallocation of funds
through the elimination of
one Safety Compliance
Specialist position and
one Occupational Health
Specialist position and
related costs to implement
recommendations of the
Productivity Realization
Task Force.

**DEPARTMENT OF LABOR
TOTAL**

(2,728,555)	(3,042,866)
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**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**

**Mental Health Services -
Children**

Positions - Other Count	(-5.0)
Personal Services	(221,738)
All Other	(15,915)

TOTAL	(237,653)
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Provides for the
deallocation of funds
through the privatization
of Bath Children's Home
pursuant to plans
submitted to the
Productivity Realization
Task Force and approved
by the Governor.

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

(237,653)

**PUBLIC SAFETY,
DEPARTMENT OF**

Criminal Justice Academy

Positions - Other Count	(-3.0)	(-3.0)
Personal Services	(26,616)	(128,751)
All Other	(46,000)	(365,274)

TOTAL	(72,616)	(494,025)
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Provides for the
deallocation of funds
through the elimination of
one Clerk Stenographer II
position and the transfer
of one Senior Planner
position and one Field
Examiner II position to
the Bureau of Highway
Safety to provide for
departmental central
grants management.

**Highway Safety - Department of
Public Safety**

Positions - Other Count	(1.0)	(1.0)
Personal Services	(6,305)	67,966
All Other	46,000	365,274

TOTAL	39,695	433,240
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Provides for the allocation
of funds for the
implementation of the
central grants
administration unit for the
department through the
elimination of one
Highway Safety Aide
position and the transfer
of one Senior Planner
position, and one Field
Examiner II position from
the Maine Criminal
Justice Academy.

**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

(32,921)	(60,785)
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SECTION

TOTAL ALLOCATIONS

(3,717,538)	(5,840,765)
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Sec. A-4. Allocations. The following funds
are allocated from the 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	approved restructuring plan.		
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF			Agricultural Production		
Executive Branch Departments and Independent Agencies - Statewide			Personal Services	24,245	48,490
Personal Services	96,123	152,454	All Other	(24,245)	(48,490)
Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through the productivity plans.			TOTAL	-0-	-0-
Executive Branch Departments and Independent Agencies - Statewide			Agricultural Production		
Personal Services	24,708	73,005	All Other	(516)	(531)
Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through the productivity plans.			Provides for the deallocation of funds from the transfer of the cranberry development program to the Division of Market and Production Development in accordance with the approved restructuring plan.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	120,831	225,459	Agricultural Production		
AGRICULTURE, FOOD AND RURAL RESOURCES DEPARTMENT OF			All Other	(506)	(511)
Office of Agricultural, Natural and Rural Resources			Capital Expenditures	(1,500)	
All Other	10,320	10,320	TOTAL	(2,006)	(511)
Provides for the allocation of funds from the transfer of the complaint response program from Agricultural Production in accordance with the approved restructuring plan.			Provides for the deallocation of funds from the transfer of the ginseng program to the Division of Plant Industry in accordance with the approved restructuring plan.		
Office of Agricultural, Natural and Rural Resources			Agricultural Production		
All Other	15,000	15,000	All Other	(15,000)	(15,000)
Provides for the allocation of funds from the transfer of the cull potato removal program from Agricultural Production in accordance with the			Provides for the deallocation of funds from the transfer of the cull potato removal program to the Office of Agricultural, Natural and Rural Resources in accordance with the approved restructuring plan.		
			Agricultural Production		
			All Other	(10,320)	(10,320)

Provides for the deallocation of funds to transfer the complaint response program from Agricultural Production to the Office of Agricultural, Natural and Rural Resources in accordance with the approved restructuring plan.			Provides for the allocation of funds from the transfer of the cranberry development program from Agricultural Production in accordance with the approved restructuring plan.		
Agricultural Production			DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
Positions - Other Count	(-16.5)	(-16.5)	TOTAL	-0-	-0-
Personal Services	(790,989)	(799,737)	AUDIT, DEPARTMENT OF		
All Other	(312,699)	(321,433)	Audit - Municipal Bureau		
Capital Expenditures	(10,000)	(10,000)	Positions - Other Count	(-13.0)	(-13.0)
TOTAL	(1,113,688)	(1,131,170)	Personal Services	(446,014)	(516,983)
Provides for the deallocation of funds to transfer the seed certification program to the Division of Plant Industry in accordance with the approved restructuring plan.			Provides for the deallocation of funds through the elimination of 4 Auditor I positions, one Director of Audits position, 2 Auditor II positions, 3 Auditor III positions, 2 Secretary positions and one Department Computer Supervisor position in accordance with the recommendations of the Productivity Realization Task Force.		
Division of Plant Industry			DEPARTMENT OF AUDIT		
All Other	506	511	TOTAL	(446,014)	(516,983)
Capital Expenditures	1,500		ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
TOTAL	2,006	511	Energy Conservation Division		
Provides for the allocation of funds from the transfer of the ginseng program from Agricultural Production in accordance with the approved restructuring plan.			Personal Services	(18,325)	(36,334)
Division of Plant Industry			All Other	(272)	(1,134)
Positions - Other Count	(16.5)	(16.5)	TOTAL	(18,597)	(37,468)
Personal Services	790,989	799,737	Provides for the deallocation of funds from the elimination of one Energy Conservation Specialist position and All Other savings, as part of the Productivity Realization Task Force plan. The headcount is in the Federal Expenditures Fund account.		
All Other	312,699	321,433	Division of Market and Production Development		
Capital Expenditures	10,000	10,000	All Other	516	531
TOTAL	1,113,688	1,131,170			

Energy Conservation Division

Personal Services	(18,837)	(41,156)
All Other	(364)	(1,150)
TOTAL	(19,201)	(42,306)

Provides for the deallocation of funds from the transfer of one Energy Conservation Specialist position to the Department of Environmental Protection as part of the Productivity Realization Task Force plan. The headcount is in the Federal Expenditures Fund account.

**DEPARTMENT OF
ECONOMIC AND
COMMUNITY
DEVELOPMENT
TOTAL**

(37,798) (79,774)

EDUCATION, DEPARTMENT OF**Division of Applied Technology**

All Other	(25,000)
Provides for the transfer of allocation to the Learning Systems program.	

Division of Finance

All Other	(269,320)
Provides for the transfer of allocation to the Leadership program.	

Division of Finance

All Other	(552)
Provides for the transfer of allocation to the Support Systems program.	

Division of Higher Education

Positions - Other Count	(-7.0)
Personal Services	(358,302)
Provides for the transfer of allocation and positions to the Support Systems program.	

Division of Instruction

Positions - Other Count	(-2.0)
Personal Services	(80,678)
All Other	(15,313)

TOTAL

(95,991)

Provides for the transfer of allocation and positions to the Learning Systems program.

Division of Instruction

All Other	(42,195)
Provides for the transfer of allocation to the Learning Systems program.	

Leadership

All Other	269,320
Provides for the transfer of allocation from the Division of Finance.	

Learning Systems

All Other	350,000
Provides for the transfer of allocation from the Special Education - State Agency Client program.	

Learning Systems

All Other	25,000
Provides for the transfer of allocation from the Division of Applied Technology.	

Learning Systems

All Other	42,195
Provides for the transfer of allocation from the Division of Instruction	

Learning Systems

Positions - Other Count	(2.0)
Personal Services	80,678
All Other	15,313

TOTAL

95,991

Provides for the transfer of allocation and positions from the Division of Instruction.

Division of School Business Services

All Other	(5,015)
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Provides for the transfer of allocation to the Support Systems program.			Personal Services	815	2,656
Special Education - State Agency Client			Provides for the allocation of funds for the reclassification of one Personnel Assistant position to one Staff Development Specialist III position to implement recommendations of the Productivity Realization Task Force.		
All Other	(350,000)				
Provides for the transfer of allocation to the Learning Systems program.					
Support Systems			Administrative Service Center		
All Other	552		Positions - Other Count	(-0.5)	(-0.5)
Provides for the transfer of allocation from the Division of Finance.			Provides for a correction in headcount to Public Law 1995, chapter 502, Part B, section 3. One Conservation Aide position was transferred from the Administration - Environmental Protection program, Other Special Revenue as one instead of 1/2 headcount.		
Support Systems					
All Other	5,015				
Provides for the transfer of allocation from the Division of School Business Services.					
Support Systems			Administrative Service Center		
Positions - Other Count	(7.0)		Positions - Other Count	(0.5)	(0.5)
Personal Services	358,302		Provides for a correction in headcount to Public Law 1995, chapter 502, Part B, section 3. One Conservation Aide position was eliminated as one instead of 1/2 headcount.		
Provides for the transfer of allocation and positions from the Division of Higher Education.					
DEPARTMENT OF EDUCATION TOTAL		-0-			
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			Maine Environmental Protection Fund		
Administration - Environmental Protection			Positions - Other Count	(1.0)	(1.0)
Positions - Other Count	(-0.5)	(-0.5)	Personal Services	25,719	44,580
Provides for a correction in headcount to Public Law 1995, chapter 502, Part B, section 3. One Conservation Aide position was transferred to the Administrative Services Center program, Other Special Revenue as one instead of 1/2 headcount.			Provides for the allocation of funds from the transfer of one Environmental Specialist II position from the Land Quality Control program, General Fund.		
Administration - Environmental Protection			Maine Environmental Protection Fund		
			Positions - Other Count	(1.0)	(1.0)
			Personal Services	19,434	41,402
			All Other	485	1,035
			TOTAL	19,919	42,437
			Provides for the allocation of funds from the transfer of one Energy		

Conservation Specialist position from the Energy Conservation Division program in the Department of Economic and Community Development.			Positions - Other Count	(-2.0)	
			Personal Services	(81,404)	
			All Other	(1,498)	
			TOTAL	(82,902)	
Land Quality Control			Provides for the deallocation of funds from the elimination of 2 Oil and Hazardous Material Specialist positions.		
Positions - Other Count	(-1.0)		Solid Waste Management		
Personal Services	(37,908)		Positions - Other Count	(-1.0)	(-1.0)
All Other	(1,024)		Personal Services	(10,703)	(33,655)
TOTAL	(38,932)		Provides for the deallocation of funds through the elimination of one Clerk IV position.		
Provides for the deallocation of funds from the elimination of one Environmental Specialist II position.					
Municipal Sewerage Construction			DEPARTMENT OF ENVIRONMENTAL PROTECTION		
Positions - Other Count	(-2.0)		TOTAL	17,019	(200,260)
Personal Services	(71,059)		HISTORIC PRESERVATION COMMISSION, MAINE		
All Other	(1,307)		Historic Preservation Commission		
TOTAL	(72,366)		Positions - Other Count	(-5.5)	(-5.5)
Provides for the deallocation of funds from the elimination of one Clerk Typist II position and one Assistant Environmental Engineer position.			Personal Services	(137,817)	(161,316)
			All Other	137,817	161,316
Oil and Hazardous Materials Control			Provides for the transfer of funds from Personal Services to All Other from the elimination of 15 part-time seasonal Museum Technician I positions and to allow for contracting these services.		
Personal Services	606	2,070	MAINE HISTORIC PRESERVATION COMMISSION		
Provides for the allocation of funds for the reclassification of one Director, Environmental Services position to one Director, Innovation and Assistance position.			TOTAL	-0-	-0-
Oil and Hazardous Materials Control			HUMAN SERVICES, DEPARTMENT OF		
Positions - Other Count	(-1.0)	(-1.0)	Administration - Human Services		
Personal Services	(19,337)	(64,148)	Positions - Other Count	(-1.0)	(-1.0)
Provides for the deallocation of funds through the elimination of one Division Director, Environmental Service's position.			Personal Services	(11,119)	(38,793)
			All Other	(750)	(1,500)
Oil and Hazardous Materials Control			TOTAL	(11,869)	(40,293)
			Provides for the deallocation of funds from the elimination of one		

Statistician II position and related All Other.			Provides for the allocation of funds to allow the transfer of one part-time Health Care Financial Analyst position and related All Other from the Office of Health Planning and Development.		
Administration - Regional - Human Services			Health - Bureau of		
Positions - Other Count	(5.0)		Positions - Other Count	(-2.0)	(-2.0)
Personal Services	158,410		Personal Services	(19,037)	(62,520)
Provides for the allocation of funds to transfer 5 Clerk Typist III positions into the Regional Clerical Pool.			All Other	(3,750)	(4,500)
Administration - Income Maintenance			TOTAL	(22,787)	(67,020)
Positions - Other Count	(-1.0)	(-1.0)	Provides for the deallocation of funds from the elimination of one part-time Laboratory Technician II position, one part-time Stores Clerk position, one Safety Compliance Specialist position and related All Other.		
Personal Services	(20,263)	(58,539)	Health - Bureau of		
All Other	(1,500)	(1,500)	Positions - Other Count	(-1.0)	(-1.0)
TOTAL	(21,763)	(60,039)	Personal Services	(14,755)	(49,821)
Provides for the deallocation of funds from the elimination of one Support Enforcement Field Supervisor position and related All Other.			All Other	(750)	(1,500)
Administration - Income Maintenance			TOTAL	(15,505)	(51,321)
Positions - Other Count		(-5.0)	Provides for the deallocation of funds from the elimination of one Chemist II position and related All Other.		
Personal Services		(158,410)	Health Planning and Development		
Provides for the deallocation of funds to transfer 5 Clerk Typist III positions into the Regional Clerical Pool.			Positions - Other Count	(-0.5)	(-0.5)
Administration - Income Maintenance			Personal Services	(1,694)	(10,648)
Personal Services	(6,520)		All Other	(750)	(1,500)
Provides for the deallocation of funds from the salary savings derived through the transfer of one Secretary position from the Department of Education and the elimination of one Clerk Typist III position.			TOTAL	(2,444)	(12,148)
Elder and Adult Services - Bureau of			Provides for the deallocation of funds from the elimination of one part-time Clerk Typist II position and related All Other.		
Positions - Other Count	(0.5)	(0.5)	Health Planning and Development		
Personal Services	6,425	27,097	Positions - Other Count	(-0.5)	(-0.5)
All Other	411	1,688	Personal Services	(6,425)	(27,097)
TOTAL	6,836	28,785	All Other	(411)	(1,688)
			TOTAL	(6,836)	(28,785)

Provides for the deallocation of funds to be transferred to the Bureau of Elder and Adult Services, including one part-time Health Care Financial Analyst position and related All Other.			of recommendations of the Productivity Realization Task Force.		
Medical Care Administration			Safety Education and Training Programs		
Positions - Other Count	(-1.0)	(-1.0)	Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(11,786)	(34,050)	Personal Services	(32,655)	(33,638)
All Other	(1,500)	(1,500)	All Other	(1,500)	(1,500)
TOTAL	(13,286)	(35,550)	TOTAL	(34,155)	(35,138)
Provides for the deallocation of funds from the elimination of one Planning and Research Assistant position and related All Other.			Provides for the deallocation of funds through the elimination of one Labor Statistician Technician position to implement recommendations of the Productivity Realization Task Force.		
Plumbing - Control Over			Safety Education and Training Programs		
Positions - Other Count	(-1.0)	(-1.0)	Personal Services	1,792	12,021
Personal Services	(11,046)	(31,908)	Provides for the allocation of funds for the reclassification of one Occupational Health Specialist position to one Senior Occupational Health Specialist position and of one Occupational Safety Engineer position to one Senior Occupational Safety Engineer position to implement recommendations of the Productivity Realization Task Force.		
All Other	(1,500)	(1,500)	Safety Education and Training Programs		
TOTAL	(12,546)	(33,408)	Personal Services	(4,876)	(27,867)
Provides for the deallocation of funds from the elimination of one Clerk Typist III position and related All Other.			Provides for the deallocation of funds through changes in allocation ratios for fiscal year 1995-96 and fiscal year 1996-97 to implement recommendations of the Productivity Realization Task Force.		
DEPARTMENT OF HUMAN SERVICES			DEPARTMENT OF LABOR		
TOTAL	(106,720)	(299,779)	TOTAL	(28,792)	2,951
JUDICIAL DEPARTMENT			MARINE RESOURCES, DEPARTMENT OF		
Courts - Supreme, Superior, District and Administrative					
All Other	132,000	400,000			
Provides for the allocation of funds for mediation services as a result of the productivity plan.					
JUDICIAL DEPARTMENT TOTAL	132,000	400,000			
LABOR, DEPARTMENT OF					
Administration - Labor					
Personal Services	8,447	53,935			
Provides for the allocation of funds for the Other Special Revenue proportionate share of position actions as a result					

Marine Development - Bureau of

Positions - Other Count	(-4.5)	(-4.5)
Personal Services	(65,383)	(136,598)
All Other	(28,945)	(56,702)
Capital Expenditures	(2,285)	(2,285)
TOTAL	(96,613)	(195,585)

Provides for the deallocation of funds for the transfer of one Marine Resource Technician position, one Marine Resource Specialist I position and 4 Conservation Aide positions from the Division of Community Resource Development to the Bureau of Resource Management.

TOTAL (136,441) (281,879)

Provides for the deallocation of funds for the transfer of one Marine Resource Scientist II position, one Marine Resource Specialist I position, one Marine Patrol Officer position and 2 Conservation Aide positions from the Division of Community Resource Development to the Bureau of Resource Management.

Marine Development - Bureau of

All Other (34,838) (69,983)

Provides for the deallocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Development - Bureau of

All Other (4,670) (32,497)

Provides for the deallocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Development - Bureau of

All Other (17,588) (35,000)
Capital Expenditures (12,500) (25,000)

TOTAL (30,088) (60,000)

Provides for the deallocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Development - Bureau of

All Other (17,216) (56,035)

Provides for the deallocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Sciences - Bureau of

Positions - Other Count (4.5) (4.5)
Personal Services 65,383 136,598
All Other 28,945 56,702
Capital Expenditures 2,285 2,285

TOTAL 96,613 195,585

Provides for the allocation of funds for the transfer of

Marine Development - Bureau of

Positions - Other Count (-4.0) (-4.0)
Personal Services (87,085) (182,045)
All Other (29,046) (59,212)
Capital Expenditures (20,310) (40,622)

one Marine Resource Technician position, one Marine Resource Specialist I position and 4 Conservation Aide positions from the Division of Community Resource Development to the Bureau of Resource Management.

Marine Sciences - Bureau of

All Other	4,670	32,497
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Provides for the allocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Sciences - Bureau of

Positions - Other Count	(4.0)	(4.0)
Personal Services	87,085	182,045
All Other	29,046	59,212
Capital Expenditures	20,310	40,622

TOTAL	136,441	281,879
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Provides for the allocation of funds for the transfer of one Marine Resource Scientist II position, one Marine Resource Specialist I position, one Marine Patrol Officer position, and 2 Conservation Aide positions from the Division of Community Resource Development to the Bureau of Resource Management.

Marine Sciences - Bureau of

All Other	17,216	56,035
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Provides for the allocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Sciences - Bureau of

All Other	17,588	35,000
Capital Expenditures	12,500	25,000

TOTAL	30,088	60,000
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Provides for the allocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

Marine Sciences - Bureau of

All Other	34,838	69,983
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Provides for the allocation of funds to transfer allotment from the Division of Community Resource Development to the Bureau of Resource Management. This brings the dedicated accounts into alignment with the General Fund accounts.

DEPARTMENT OF MARINE RESOURCES

TOTAL	-0-	-0-
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MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF**Augusta Mental Health Institute**

Positions - Other Count	(-17.0)	(-24.0)
Personal Services	(527,083)	(730,023)
All Other		(22,795)

TOTAL	(527,083)	(752,818)
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Provides for the deallocation of funds through the elimination of the following positions: one Assistant to the Superintendent, one Director, Social Services, one Carpenter Supervisor, one Medical Records Administrator, one Rehabilitation Services Director, one Nurse Manager, one Chief Operations Officer, one part-time Clerk Typist III, one Custodial Worker II,

one part-time Food Service Worker, one Housekeeper II, one Institutional Custodial Worker, one Locksmith, one Medical Secretary, one Payroll Supervisor, one Plumber II, one Safety Compliance Officer, 5 intermittent Mental Health Worker I, one intermittent Nurse II, one Switchboard Operator and the reduction of 13 hours for 2 Clerk Typist III positions pursuant to plans submitted to the Productivity Realization Task Force and approved by the Governor. Also deallocates funds from the elimination of one Habilitation Aide position, one Mental Health Worker III position, one Mental Health Worker V position, one Nurse I position, one Nurse II position, one Psychiatric Therapy Instructor position, one Habilitation position, 5 intermittent Mental Health Worker I positions and one intermittent Nurse II position effective September 30, 1996 to maintain a reserve capacity for acute admissions until adequate community alternatives are in place.

Bangor Mental Health Institute

Positions - Other Count	(-38.5)	(-38.5)
Personal Services	(363,703)	(942,651)
All Other		(36,567)
TOTAL	(363,703)	(979,218)

Provides for the deallocation of funds through the reduction from full-time to part-time one Personnel Officer position and one Clerk Typist II position, and the elimination of the following positions: one Account Clerk II, 9 Mental Health Worker I, one Mental Health

Worker II, 3 Nurse I, 3 Nurse II, 6 Nurse III, one Nurse IV, one Switchboard Operator, one Psychiatric Social Worker I, one Psychiatric Social Worker II, 2 LPN, one Custodial Worker II, one Custodial Worker III, one Laborer II, one Safety Officer, one Physician Assistant, 2 Ward Clerk, one Assistant Team Leader, one 18-hour-per-week Clinical Dietitian, and one part-time Psychiatric Nursing Instructor pursuant to the plans submitted to the Productivity Realization Task Force.

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION**

TOTAL	(890,786)	(1,732,036)
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**PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF**
Insurance - Bureau of

Personal Services	500	2,000
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Provides for the allocation of funds for the reorganization of one Principal Insurance Examiner position to one Managing Insurance Examiner position as part of the department's productivity plan.

Insurance - Bureau of

Personal Services	450	1,800
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Provides for the allocation of funds for the range change of one Insurance Rate Analyst position from range 21 to range 22 as part of the department's productivity plan.

Licensing and Enforcement

Positions - Other Count	(3.0)
Personal Services	89,989
All Other	43,500
Capital Expenditures	7,500

TOTAL	140,989
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Provides for the allocation of funds for the transfer of one Chief Boiler Elevator Inspector position and 2 Clerk Typist III positions in fiscal year 1996-97 from the Regulation and Enforcement program, General Fund in the Department of Labor to implement recommendations of the Productivity Realization Task Force.

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL REGULATION
TOTAL**

950

144,789

**PUBLIC SAFETY,
DEPARTMENT OF**

Administration - Public Safety

Positions - Other Count
Personal Services
All Other

(30.0)

1,207,227

254,407

TOTAL

1,461,634

Provides for the allocation of funds for the establishment, through transfer from the Office of the State Fire Marshal and the Licensing and Enforcement Unit of the Maine State Police, of 3 Clerk Typist III positions, 5 Clerk Typist II positions, one Account Clerk II position, one State Police Sergeant position, 2 State Police Detective positions, 2 Public Safety Inspector III positions, 4 Public Safety Inspector II positions, 11 Public Safety Inspector I positions and one Senior Information Systems Support Specialist position to the Licensing and Inspections Unit within the Administrative Services Division of the Department of Public Safety.

Drug Enforcement Agency

Positions - Other Count
Personal Services

(-2.0)

1,829

(-3.0)

(152,361)

Provides for the deallocation of funds through the elimination of one Business Manager I position and one Senior Agent position in fiscal year 1995-96 and the transfer of one Senior Information Systems Support Specialist position in fiscal year 1996-97 to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.

Fire Marshal - Office of

Positions - Other Count
Personal Services
All Other

(-25.0)

(901,955)

(153,589)

TOTAL

(1,055,544)

Provides for the deallocation of funds through the elimination of one Clerk Typist II position, 2 Clerk Stenographer II positions, one Fire Inspector position, one Fire Protection Specialist Assistant position, the transfer and reclassification of one Fire Inspector Supervisor position, 7 Fire Inspector positions, one Fire Protection Specialist position, 7 Fire Protection Specialist Assistant positions and one Clerk Stenographer II position and the transfer of 2 Clerk Typist II positions and one Account Clerk II position to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.

Fire Marshal - Office of

Positions - Other Count
Personal Services
All Other

(-1.0)

(40,495)

(6,683)

TOTAL

(47,178)

Provides for the deallocation of funds for one Fire Protection Specialist Assistant position transferred to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.		
Licensing and Enforcement - Public Safety		
Positions - Other Count	(-8.0)	
Personal Services	(338,299)	
All Other	(94,135)	
TOTAL	(432,434)	
Provides for the deallocation of funds through the transfer and reclassification of 2 Clerk Stenographer III positions, the transfer of 2 Clerk Typist II positions, one Clerk Typist III position, one State Police Sergeant position and 2 State Police Detective positions to the Licensing and Inspection Unit within the Administrative Services Division of the Department of Public Safety.		
Traffic Safety - Commercial Vehicle Enforcement		
Personal Services	(13,988)	(60,540)
Provides for the deallocation of funds as a result of a classification change of 2 State Trooper positions to 2 Motor Carrier Inspector positions.		
Turnpike Enforcement		
Positions - Other Count	(-1.0)	(-1.0)
Personal Services	(6,479)	(28,733)
Provides for the deallocation of funds through the elimination of one vacant Clerk Typist III position.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	(18,638)	(315,156)

SECTION		
TOTAL ALLOCATIONS	(1,257,948)	(2,370,789)

Sec. A-5. Allocations. The following funds are allocated from the Federal Block Grant 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
EDUCATION, DEPARTMENT OF		
Division of Instruction		
Positions - Legislative Count		(-2.0)
Personal Services		(114,801)
All Other		(5,420)
TOTAL		(120,221)
Provides for the transfer of allocation and positions to the Learning Systems program.		
Learning Systems		
Positions - Legislative Count		(2.0)
Personal Services		114,801
All Other		5,420
TOTAL		120,221
Provides for the transfer of allocation and positions from the Division of Instruction.		
Management Information Systems		
Positions - Legislative Count		(5.0)
Personal Services		268,100
All Other		2,320,605
Capital Expenditures		30,000
TOTAL		2,618,705
Provides for the transfer of allocation and positions from the Support Services Unit.		
Support Services Unit		
Positions - Legislative Count		(-5.0)
Personal Services		(268,100)
All Other		(2,320,605)
Capital Expenditures		(30,000)
TOTAL		(2,618,705)
Provides for the transfer of allocation and positions to the Management		

Information Systems program.		
DEPARTMENT OF EDUCATION		
TOTAL		-0-
HUMAN SERVICES, DEPARTMENT OF		
Administration - Regional - Human Services		
Positions - Legislative Count	(5.0)	
Personal Services	142,395	
Provides for the allocation of funds to transfer clerical positions into the Regional Clerical Pool, which includes 5 Clerk Typist II positions.		
Maternal and Child Health		
Positions - Legislative Count	(-5.0)	
Personal Services	(142,395)	
Provides for the deallocation of funds to transfer 5 Clerk Typist II positions into the Regional Clerical Pool.		
Maternal and Child Health		
Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(13,807)	(13,807)
All Other	(1,500)	(1,500)
TOTAL	(15,307)	(15,307)
Provides for the deallocation of funds from the elimination of one Comprehensive Health Planner I position and related All Other.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	(15,307)	(15,307)
SECTION		
TOTAL ALLOCATIONS	(15,307)	(15,307)

Sec. A-6. Allocations. The following funds are allocated from the Telecommunications 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		

Intergovernmental Telecommunications Fund		
All Other	(9,000)	(18,000)
Provides for the deallocation of funds from productivity savings as a result of streamlining operations.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	(9,000)	(18,000)
SECTION		
TOTAL ALLOCATIONS	(9,000)	(18,000)

Sec. A-7. Allocations. The following funds are allocated from the 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	(-10.0)	(-10.0)
Personal Services	(251,091)	(396,651)
All Other	(213,376)	(325,392)
TOTAL	(464,467)	(722,043)
Provides for the deallocation of funds to reflect the savings produced through productivity efforts in operations through the elimination of one Computer Operator position, one Database Analyst position, one Programmer Analyst position, one Data Communications Technician position, one Computer Support Supervisor position, one Computer Operations Assistant Manager position, one Data Control Librarian Supervisor position, one Storekeeper I position, one Data Control Specialist position and one Computer Operations Supervisor position.		

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(464,467) (722,043)

**SECTION
TOTAL ALLOCATIONS**

(464,467) (722,043)

Sec. A-8. Allocations. The following funds are allocated from Internal Services Fund - Statewide 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**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 14,975 23,656

Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through the productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 3,849 11,328

Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through the productivity plans.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

18,824 34,984

**SECTION
TOTAL ALLOCATIONS**

18,824 34,984

Sec. A-9. Allocations. The following funds are allocated from the Alcoholic Beverage Fund 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**

**Alcoholic Beverages - General
Operation**

1995-96 1996-97

Positions - Legislative Count (-9.5) (-9.5)
Positions - Other Count (-4.5) (-4.5)
Personal Services (391,846) (471,462)

Provides for the deallocation of funds through the elimination of 2 Assistant Manager Retail Store positions, 6.5 Retail Store Clerk positions, one Retail Store Manager I position, 3.5 seasonal Retail Store Clerk positions, 12 intermittent Retail Store Clerk positions and one seasonal Store Clerk position.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(391,846) (471,462)

**SECTION
TOTAL ALLOCATIONS**

(391,846) (471,462)

Sec. A-10. Allocations. The following funds are allocated from the Enterprise Fund - Statewide 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**

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 23,370 28,118

Provides for the allocation of funds for the unfunded liability portion of the Personal Services savings achieved through the productivity plans.

**Executive Branch Departments
and Independent Agencies -
Statewide**

Personal Services 6,007 13,465

Provides for the allocation of funds for the retiree health insurance portion of the Personal Services savings achieved through the productivity plans.

DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL

29,377 41,583

SECTION
TOTAL ALLOCATIONS

\$29,377 \$41,583

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§§87 and 88, as amended by PL 1989, c. 875, Pt. M, §§1 and 13, are further amended to read:

87.	Maine Tourism	Expenses Only	5 MRSA §13067 §13080-R
	Commission		
88.	Maine State Video and Film	Expenses Only	5 MRSA §13069 §13080-T
	Commission		

Sec. B-2. 5 MRSA §13055, sub-§1, ¶B, as amended by PL 1991, c. 622, Pt. F, §7, is further amended to read:

B. The Office of Tourism and Community Development.

Sec. B-3. 5 MRSA §13062-A, sub-§§1 and 3, as enacted by PL 1993, c. 410, Pt. NNN, §1, are amended to read:

1. Economic Conversion Division; establishment. The Economic Conversion Division, referred to in this section as the "division," is established within the Office of Business Tourism and Community Development to implement the recommendations of the Task Force on Defense Realignment and the Economy.

3. Responsibilities. The Economic Conversion Division, in conjunction with ~~the Office of Business Development~~ and the Task Force on Defense Realignment and the Economy, shall perform the following functions:

- A. Serve as a clearinghouse for any firm, community or worker concerning economic conversion or defense dislocation assistance;
- B. Coordinate all interagency state economic conversion and diversification resources, activities and programs;
- C. Provide necessary support and coordination of established and future regional conversion task force efforts in the State;
- D. Pursue federal economic conversion assistance programs; and

E. Assist the Task Force on Defense Realignment and the Economy in monitoring shifts in federal defense spending trends and related impacts on the State's major defense-dependent firms and military installations, in serving as a liaison and legislative advocate to the Governor, Legislature and congressional delegation on conversion activities and related matters, and in developing a public awareness program on the State's defense dependency, conversion efforts and related assistance programs.

Sec. B-4. 5 MRSA §13063-B is enacted to read:

§13063-B. Energy conservation programs

The Director of the Office of Business Development, referred to in this section as the "director," shall administer the following energy conservation programs.

1. Federally mandated programs. The director shall administer the following federally mandated programs, formerly administered by the Office of Energy Resources:

- A. State Energy Conservation Program;
- B. Energy Extension Service; and
- C. Institutional Conservation Program.

2. Energy conservation standards. The director shall adopt energy conservation standards and adopt rules for administration of the standards and the certification of energy-efficient buildings, as defined in Title 10, chapter 214.

3. Approval; denial of certificates. The director shall provide for the approval or denial of certificates of energy efficiency, as required in Title 10, chapter 214.

4. Preparation of manual. The director shall prepare the Manual of Accepted Practices, as described in Title 10, chapter 214.

5. Review; inspection. The director may review plans and specifications and may inspect buildings to determine compliance with the energy conservation standards, established in Title 10, chapter 214.

6. Rule-making authority. If the Residential Conservation Service, as established by the federal National Energy Conservation Policy Act, Public Law 95-619, November 9, 1978, 92 STAT. 3206 as amended by the federal Energy Security Act, Public Law 96-294, June 30, 1980, 94 STAT. 611, is repealed or amended by deleting the requirements for providing energy conservation information and energy

audits and arranging financing for energy conservation improvements for residential customers, the director may adopt rules pursuant to the Maine Administrative Procedure Act to continue these services. In establishing these rules, the director shall simplify federal rules without preventing fulfillment of the program objectives and the director may not impose rules containing additional requirements for utilities.

Until the director adopts new rules under this subsection, the previously existing federal regulations and any state rules implementing them are deemed state rules with full force.

Sec. B-5. 5 MRSA c. 383, sub-c. II, art. 3, as amended, is repealed.

Sec. B-6. 5 MRSA c. 383, sub-c. III is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

TOURISM AND COMMUNITY DEVELOPMENT

Sec. B-7. 5 MRSA c. 383, sub-c. III, art. 1 is amended by repealing the article headnote and enacting the following in its place:

Article 1

COMMUNITY DEVELOPMENT

Sec. B-8. 5 MRSA §13072, as amended by PL 1995, c. 395, Pt. D, §§6 to 9, is further amended by repealing and replacing the headnote to read:

§13072. Community development

Sec. B-9. 5 MRSA §13072, first ¶, as amended by PL 1987, c. 816, Pt. P, §8, is further amended to read:

The Office of Tourism and Community Development shall assist municipalities in planning for and achieving economic growth and development while, at the same time, preserving and protecting their resources and assets. To achieve this purpose, the department, through the office, shall strive to remove barriers to balanced economic growth and provide planning, technical and financial resources to the municipalities to enhance economic development.

Sec. B-10. 5 MRSA §13072, 2nd ¶, as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

~~The Deputy Commissioner for Community Development shall be the~~ Director of the Office of Tourism and Community Development ~~and~~ shall administer the office in accordance with the policies of the commissioner and the provisions of this chapter.

The director ~~shall have~~ has the following powers and duties.

Sec. B-11. 5 MRSA c. 383, sub-c. III, art. 1-C is enacted to read:

Article 1-C

TOURISM

§13080-O. Tourism

1. Tourism; establishment. The Office of Tourism and Community Development shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of Tourism and Community Development shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the Maine Tourism Commission and the Maine State Film Commission.

2. Duties. The Director of the Office of Tourism and Community Development shall:

A. Implement advertising and promotion programs to market the State's travel industry and to attract on-location filming of movies, advertisements and videos in the State;

B. Print, or cause to have printed, alone or in cooperation with other travel promotion agencies and groups, booklets, brochures, pamphlets and other materials as required to fulfill requests for information on the State's travel products and the State's facilities, sites and services for the filming of movies and videos in the State;

C. Encourage the development of travel product facilities and activities by locating potential developers, providing market and feasibility analysis, assisting developers in complying with applicable laws and rules and providing technical assistance to local decision making, including decisions regarding site selection, financing and utilities;

D. Review and comment upon the policies and programs of state agencies that directly affect the achievement of the duties and responsibilities of the office;

E. Provide basic support and discretionary matching grants to local, regional and statewide nonprofit agencies that directly affect the achievement of the duties and responsibilities of the office;

F. Staff or cause to be staffed any information center constructed, owned, leased, acquired or operated by the State;

G. Employ or engage outside technical or professional consultants or organizations as are necessary or appropriate to assist the office in carrying out its functions;

H. Accept fees as the director may designate for the preparation and distribution of books, booklets, brochures, pamphlets, films, photos, maps, exhibits, mailing lists and all similar materials and media advertising. There is established within the office a revolving fund for the use of the office to help offset the preparation and distribution costs of these materials. The office shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of publications and other materials charged to the revolving fund is credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving fund;

I. Subject to the approval of the commissioner, adopt, amend and repeal rules to carry out the purposes of this section; and

J. Undertake other activities that the commissioner considers appropriate and necessary to ensure the successful implementation of this section.

§13080-P. Historical marker program

1. Historical markers. The Director of the Office of Tourism and Community Development may erect historical markers or signs on any highway. No more than 10 historical markers may be erected in one year. Markers that would interfere with reasonable use of highways may not be erected.

2. Review council. The Director of the Office of Tourism and Community Development shall consult with the Maine Historic Preservation Commission and the Department of Transportation on the historical marker program. Before erecting any marker, the director shall secure the Maine Historic Preservation Commission's approval of the marker, the marker's location and the marker's wording. The Maine Historic Preservation Commission shall obtain, or cause to be obtained, as needed, information on the event to be commemorated and on the appropriate location for the marker, including consulting historians and holding public hearings.

3. Municipal permission. Municipal officers may permit the erection of monuments, tablets and markers by individuals or societies on public highways or other public grounds, in places and of a character as may be approved by the municipal officers, to indicate the occurrence of historic events and matters of public interest, as long as the markers

do not interfere with reasonable use of the highways or other public places.

4. Cooperative agreements. The Maine Historic Preservation Commission may enter into cooperative agreements with any municipality or historical society to erect a historical marker on any highway. The agreement must provide for reasonable sharing of the initial expense and for the municipality or society to maintain and care for the marker.

5. Damages. If a person's property is damaged by the erection of a monument, tablet or marker, that person may apply to the municipal officers within 6 months after the erection to assess and recover damages.

6. Change of location. A person whose rights or interests are affected by the location of a monument, tablet or marker may, within 60 days after the approval of the municipal officers, petition the municipal officers for a change of location and, after notice to parties and hearing, the municipal officers may alter or revoke approval to use the location.

7. Petition to court. If the municipal officers neglect or refuse after 30 days to decide upon any petition addressed to them or if a party whose interests are affected by the decision is dissatisfied with the decision, the dissatisfied petitioner or party may apply to the Superior Court for relief within 60 days of the decision.

8. Return; record; fees. The municipal officers shall, within 30 days, decide upon every petition presented to them and upon every location approved under this section, and shall cause this information to be recorded by the town clerk. The fees of the municipal officers and town clerk must be paid by the petitioner.

§13080-Q. Tourism marketing and development strategy

1. Development. The Office of Tourism and Community Development shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

2. Administration. The Office of Tourism and Community Development shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical

assistance and response mechanisms. The Office of Tourism and Community Development shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy.

3. Tourism Marketing and Development Fund. The Tourism Marketing and Development Fund is established within the department. 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 years 1993-94, 1994-95, 1995-96 and 1996-97.

This subsection is repealed July 1, 1997.

§13080-R. Maine Tourism Commission

1. Maine Tourism Commission. The Maine Tourism Commission, established by section 12004-I, subsection 87 and referred to in this section as the "commission," shall assist and advise the Office of Tourism and Community Development to achieve its purpose under section 13080-O. The commission consists of 9 members of major tourism trade associations and 8 public members who must represent their respective regions and have experience in the field or have demonstrated concern for the travel industry. The terms of the members are for 4 years each, except that, for the members first appointed, 4 members are appointed for terms of 4 years, 4 members for terms of 3 years, 4 members for terms of 2 years and 5 members for terms of one year. The members are appointed by the Governor, who shall fill a vacancy in the membership for the unexpired term. The commissioner, director or a designee of the following state departments or offices shall serve as ex officio, nonvoting members of the commission: the department; the State Planning Office; the Department of Conservation; the Department of Transportation; the Department of Inland Fisheries and Wildlife; the Department of Agriculture, Food and Rural Resources; the Department of Education; the Bureau of Public Improvements; and the Canadian Affairs Coordinator. A chair and vice-chair must be elected annually from the appointed membership.

2. Powers and duties. The commission shall:

A. Recommend rules for the implementation of section 13080-S and make recommendations on the award of matching funds to the commissioner and the Director of the Office of Tourism and Community Development;

B. Recommend policy guidelines on marketing, promotion and advertising strategies to the

Office of Tourism and Community Development;

C. Conduct public hearings necessary to obtain input concerning tourism policy development from a broad cross-section of travel interests;

D. Assist the Office of Tourism and Community Development in providing technical assistance to the travel industry and in planning and conducting periodic tourism conferences;

E. Prepare a report for annual submission to the Governor and the Legislature relative to the programs, policies and accomplishments of the commission; and

F. Assist the Office of Tourism and Community Development in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section.

3. Compensation. Commission members are entitled to compensation as provided by chapter 379.

§13080-S. Travel Promotion Matching Fund Program

1. Statement of purpose. The Travel Promotion Matching Fund Program is established for the following purposes:

A. To allow the State to provide part of the funds necessary for public and private, nonprofit travel promotional organizations to conduct promotional programs; and

B. To strengthen the State's image by coordinating the promotional efforts of the private sector with those of the Office of Tourism and Community Development.

2. Eligible organization. Matching funds must be made available to those nonprofit travel promotional organizations that best meet the purposes of this section. An organization may not disburse state matching funds to a private, for-profit business for the purpose of promoting its goods, services, functions or activities.

3. Limitations. This section does not reduce any organization's financial participation in any ongoing project, but rather to increase or develop new programs. The grant program as established in subsection 4, must be geared to specific promotional efforts and costs and is not intended to match any administrative costs, including any form of personal services.

4. Administration. The Office of Tourism and Community Development shall administer the Travel Promotion Matching Fund Program with such

flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Maine Tourism Commission shall recommend rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Maine Tourism Commission shall establish a schedule for review of grant applications and make timely recommendations of grant awards to the Office of Tourism and Community Development. Grants recommended by the Maine Tourism Commission to the Office of Tourism and Community Development must be approved by the Director of the Office of Tourism and Community Development prior to any disbursement of funds.

5. Bookkeeping systems. The department and all tourist promotional organizations qualifying for matching funds under this section shall keep accurate records of any applications, transactions, payment receipts and correspondence relating to the implementation of the Travel Promotion Matching Fund Program.

A. The department shall establish a standard accounting procedure to be used by any organization receiving money under this section.

B. The records of any organization pertaining to accounts and contracts funded with money under this section must be open to audit by the State or by any firm employed by the State to audit these records.

Additional matching funds may not be awarded to an organization until the provisions of this subsection have been met.

§13080-T. Maine State Film Commission

1. Maine State Film Commission established. The Maine State Film Commission, as established by section 12004-I, subsection 88, is within the Office of Tourism and Community Development and shall advise and assist the office as necessary. The commission shall advise the commissioner and the Director of the Office of Tourism and Community Development with respect to the operation of the Maine State Film Commission program.

A. The commission consists of 11 members appointed by the Governor.

(1) The members appointed must be involved in a related business field or have experience or familiarity with media marketing or public relations. The Governor

shall ensure an equitable regional representation from the State.

(2) The Director of the Maine Arts Commission and the commissioner shall serve as ex officio, nonvoting members of the commission.

B. The terms of office of commission members are as follows.

(1) All members are appointed for 3-year terms. Of those first appointed, 3 are appointed for 3-year terms, 4 are appointed for 2-year terms and 4 are appointed for one-year terms. The Governor shall designate the terms of office of those first appointed at the time of appointment.

(2) Members shall serve until their successors are appointed and take office. The Governor may terminate the membership of any appointee for just cause and the reason for the termination must be communicated in writing to each member whose term is so terminated.

(3) Vacancies must be filled in the same manner as original appointments, except that any person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the vacancy.

C. The chair and vice-chair are appointed by the Governor annually at the first meeting of the commission and serve for one-year terms.

(1) The chair shall call meetings of the commission.

D. Members are compensated for expenses only in accordance with chapter 379.

E. Financing of promotional and development materials and expenses pursuant to this section must be made with funds within the limit of the budget of the department for the Office of Tourism and Community Development.

2. Powers and duties. The Maine State Film Commission has the following powers and duties:

A. To recommend rules for the implementation of the provisions relating to the promotion of filming activities in the State;

B. To advise and assist the Director of the Maine State Film Office and the Director of the Office of Tourism and Community Development with respect to this section and section 13080-U;

C. To raise and accept funds from public and private sources to be used to promote filming activities in the State; and

D. To promote the State for in-state, on-location filming of movies, advertisements and videos.

§13080-U. Maine State Film Office

The Maine State Film Office is established within the Office of Tourism and Community Development. The Director of the Maine State Film Office is responsible for undertaking a program of film promotion and implementing the recommendations and policies of the commissioner.

Sec. B-12. 5 MRSA §13084, as amended by PL 1991, c. 548, Pt. A, §1, is repealed.

Sec. B-13. 5 MRSA §13085, as enacted by PL 1989, c. 875, Pt. M, §§7 and 13, is repealed.

PART C

Sec. C-1. 5 MRSA §948, sub-§1, ¶¶I and J, as amended by PL 1991, c. 837, Pt. B, §4, are further amended to read:

I. Director, Maine Drug Enforcement Agency;
~~and~~

J. Assistant Director, Maine Drug Enforcement Agency;
~~and~~

Sec. C-2. 5 MRSA §948, sub-§1, ¶K is enacted to read:

K. Two majors, Bureau of State Police.

Sec. C-3. 25 MRSA §1501, 3rd ¶, as amended by PL 1985, c. 785, Pt. B, §108, is further amended to read:

Subject to the approval of the Commissioner of Public Safety, the chief may appoint 2 commissioned officers of the State Police to act as ~~his~~ the chief's deputies and ~~serve at his pleasure 2 commissioned officers of the State Police to act as the chief's majors, all of whom serve at the pleasure of the chief.~~ Subject to the Civil Service Law, the Chief of the State Police may enlist suitable persons as members of the State Police to enforce the law and employ such other employees as may be necessary. The Chief of the State Police shall make rules, subject to the approval of the State Civil Service Appeals Board, for the discipline and control of the State Police. If a deputy chief or major is removed or fails to be reappointed for any reason other than malfeasance of office and, at that time, does not have at least 20 years of service with the State Police, ~~he shall the deputy chief or major must~~ be reinstated at the commissioned rank

held at the time of the appointment with all the rights and privileges as provided by law and personnel rules.

Sec. C-4. Effective date. This Part takes effect October 31, 1996.

PART D

Sec. D-1. Calculation and transfer. The State Budget Officer shall calculate the amounts in section 3 of this Part that apply against each General Fund account for all departments and agencies based on the proportionate share of data processing in the All Other appropriations of the affected account. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Budget Office shall distribute the calculated amounts resulting from section 3 of this Part among the affected accounts as appropriated adjustments.

Sec. D-2. Data processing rates. The Bureau of Information Services shall calculate new data processing rates in fiscal years 1995-96 and 1996-97 based on savings resulting from streamlining operations pursuant to plans submitted to the Productivity Realization Task Force.

Sec. D-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		
All Other	(\$317,902)	(\$488,492)
Provides for the deappropriation of funds related to the General Fund share of savings associated with the reductions in data processing costs resulting from the streamlining of operations within the Bureau of Information Services pursuant to plans submitted to the Productivity Realization Task Force.		

PART E

Sec. E-1. 5 MRSA §938, sub-§1, as amended by PL 1995, c. 368, Pt. UU, §§2 to 5 and 7 and affected by c. 395, Pt. U, §3, is repealed.

Sec. E-2. 5 MRSA §938, sub-§1-A is enacted to read:

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

- A. Deputy Commissioner;
- B. Director, Office of Management Services;
- C. Director, Policy Development and Implementation;
- D. Director, Education and Outreach;
- E. Director, Innovation and Assistance;
- F. Director, Bureau of Air Quality Control;
- G. Director, Bureau of Remediation and Waste Management; and
- H. Director, Bureau of Land and Water Quality.

Sec. E-3. 38 MRSA §342, sub-§2, as amended by PL 1989, c. 890, Pt. A, §15 and affected by §40, is further amended to read:

2. Employment of personnel. The commissioner may employ, subject to the Civil Service Law, personnel for the department and prescribe the duties of these employees, except persons occupying the positions defined in Title 5, section 938, subsection 4 ~~1-A~~, as the commissioner ~~deems~~ determines necessary to fulfill the duties of the department. For purposes of this subsection, personnel for the department does not include staff of the board.

Sec. E-4. 38 MRSA §342, sub-§5-A, ¶C, as amended by PL 1987, c. 787, §4, is further amended to read:

C. Directors as defined in Title 5, section 938, subsection 4 ~~1-A~~.

Sec. E-5. Nonlapsing funds. Any unencumbered balance of General Fund appropriations remaining on June 30, 1996 in the Statewide - Unfunded Liability - Retirement account and the Statewide - Retiree Health account in the Department of Administrative and Financial Services may not lapse but must be carried forward to be used for the same purposes.

Sec. E-6. Nonlapsing funds. Any unencumbered balance of Highway Fund allocations remaining on June 30, 1996 in the Statewide - Unfunded Liability - Retirement account and the Statewide -

Retiree Health account in the Department of Administrative and Financial Services may not lapse but must be carried forward to be used for the same purposes.

Sec. E-7. Nonlapsing funds. Notwithstanding any other provision of law, any unencumbered balance of Highway Fund allocations or General Fund appropriations remaining on June 30, 1996 in the Personal Services line category of accounts as a result of Public Law 1995, chapter 502, Part R may not lapse but must be carried forward to be used in fiscal year 1996-97 for the same purposes.

Sec. E-8. Transfer of funds. Notwithstanding any other provision of law, the Department of Labor may periodically transfer up to \$70,000 during fiscal year 1996-97, from the Safety Education and Training Fund to the Licensing and Enforcement Program, Other Special Revenue, in the Department of Professional and Financial Regulation. The transfers are for the purpose of meeting start-up costs for the boiler, elevator and tramway certification program and are to be repaid to the Safety Education and Training Fund as program receipts become available.

PART F

Sec. F-1. 5 MRSA §48, sub-§3, as amended by PL 1995, c. 426, §1, is further amended to read:

3. Interpreting services and coordination for interpreters; request to the Bureau 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 Registry of Interpreters for the Deaf, Inc., the ~~Office~~ Bureau 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~~ Bureau 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~~ Bureau 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~~ Bureau 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 any-

one 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 Bureau~~ of Rehabilitation Services to ensure implementation and continuation of the provisions of this section.

Sec. F-2. 5 MRSA §937, sub-§1, ¶¶G and H, as repealed and replaced by PL 1995, c. 465, Pt. A, §6, are amended to read:

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

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

Sec. F-3. 5 MRSA §937, sub-§1, ¶I, as repealed and replaced by PL 1995, c. 465, Pt. A, §6, is repealed.

Sec. F-4. 5 MRSA §1822, as amended by PL 1993, c. 708, Pt. J, §3, is further amended to read:

§1822. Blind-made products

A Blind-made Products Committee, comprising the State Purchasing Agent, the Director of the ~~Office Bureau~~ of Rehabilitation Services and the Director of the Division for the Blind and Visually Impaired, ~~Office Bureau~~ of Rehabilitation Services, and in this section and sections 1823 and 1824 called "the committee," shall determine the price of all products that meet specifications prescribed by the State Purchasing Agent ~~and~~ are agreeable to all members of the committee and are manufactured by the Maine Center for the Blind and Visually Impaired and offered for sale to the State or a political subdivision, governmental agency or public benefit corporation of the State. The committee shall revise prices from time to time in accordance with changing cost factors and shall make rules and regulations regarding selection of products, time of delivery and other relevant matters necessary to carry out the purpose of this section and sections 1823 and 1824.

Sec. F-5. 5 MRSA §1826-C, sub-§1, as amended by PL 1993, c. 708, Pt. J, §5, is further amended to read:

1. Committee established. There is established the Work Center Purchases Committee, consisting of

the State Purchasing Agent, the Director of the ~~Office Bureau~~ of Rehabilitation Services, a representative of the Department of Mental Health and Mental Retardation, a representative of work centers, a disabled person and a representative of the business community.

Sec. F-6. 5 MRSA §12004-I, sub-§11-A, as enacted by PL 1993, c. 708, Pt. E, §1, is repealed.

Sec. F-7. 5 MRSA §12004-I, sub-§40, as amended by PL 1993, c. 708, Pt. J, §6, is repealed.

Sec. F-8. 5 MRSA §12004-I, sub-§§54-A and 54-B are enacted to read:

<u>54-A.</u>	<u>Advisory</u>	<u>As</u>	<u>26</u>
<u>Education:</u>	<u>Committee</u>	<u>Author-</u>	<u>MRSA</u>
<u>Office of</u>	<u>on Improving</u>	<u>ized by</u>	<u>§1416-A</u>
<u>Rehabilita-</u>	<u>Outdoor</u>	<u>Commit-</u>	
<u>tion Services</u>	<u>Recreational</u>	<u>tee</u>	
	<u>Opportunities</u>		
	<u>for Persons</u>		
	<u>with</u>		
	<u>Disabilities,</u>		
	<u>commonly</u>		
	<u>known as</u>		
	<u>Maine</u>		
	<u>Outdoor</u>		
	<u>Recreation</u>		
	<u>for Everyone,</u>		
	<u>M.O.R.E.</u>		

<u>54-B.</u>	<u>Advisory</u>	<u>Expenses</u>	<u>26</u>
<u>Labor:</u>	<u>Council to</u>	<u>Only</u>	<u>MRSA</u>
<u>Rehabilita-</u>	<u>Division of</u>		<u>§1413-C</u>
<u>tion Services</u>	<u>Deafness</u>		

Sec. F-9. 20-A MRSA §203, sub-§1, ¶¶G and H, as amended by PL 1993, c. 708, Pt. J, §7, are further amended to read:

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

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

Sec. F-10. 20-A MRSA §203, sub-§1, ¶I, as enacted by PL 1993, c. 708, Pt. J, §7, is repealed.

Sec. F-11. 20-A MRSA Pt. 8, as amended, is repealed.

Sec. F-12. 26 MRSA c. 19 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 19**DEPARTMENT OF LABOR****SUBCHAPTER I****DEPARTMENT OF LABOR**

Sec. F-13. 26 MRSA c. 19, sub-c. II is enacted to read:

SUBCHAPTER II**REHABILITATION SERVICES****Article 1****REHABILITATION ACT****§1411. Short title**

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

§1411-A. Definitions

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

1. Community rehabilitation program.
"Community rehabilitation program" means a facility operated for the primary purpose of providing rehabilitation services to or gainful employment for people with disabilities, or evaluation and vocational services for disadvantaged individuals, that provides one or more of the following services for people with disabilities:

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

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

C. Prevocational conditioning or recreational therapy;

D. Physical and occupational therapy;

E. Speech and hearing therapy;

F. Psychological and social services;

G. Vocational evaluation;

H. Personal and work adjustment;

I. Vocational training in combination with other rehabilitation services;

J. Placement;

K. Transitional and supported employment; and

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

2. Disadvantaged individuals. "Disadvantaged individuals" means:

A. Persons with disabilities as defined in this section;

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

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

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

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

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

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

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

expected that the individual can benefit from vocational rehabilitation services or other services available to disadvantaged individuals;

E. Outreach, referral and advocacy; and

F. The administration of these evaluation and vocational services.

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

5. Person with disability. "Person with a disability" means an individual who has a physical or mental disability that constitutes a substantial barrier to employment but is of such a nature that vocational rehabilitation services may reasonably be expected to render the individual fit to engage in gainful employment that is consistent with the individual's capacities and abilities. "Person with a disability" also means an individual who has a physical or mental disability that constitutes a substantial barrier to employment and for whom vocational rehabilitation services are necessary to determine rehabilitation potential. An "individual who is under a physical or mental disability" means an individual who has a physical or mental condition that materially limits, contributes to limiting or, if not corrected, results in limiting that individual's activities or functions.

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

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

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

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

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

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

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

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

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

(3) Prosthetic and orthotic devices; and

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

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

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

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

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

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

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

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

§1411-B. Rehabilitation services unit created

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

§1411-C. Authority

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

§1411-D. Powers and duties of department

In carrying out this article, the commissioner:

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

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

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

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

5. Research fellowships and traineeships. May make studies, investigations, demonstrations and

reports and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships, with stipends and allowances as determined necessary, in matters relating to rehabilitation;

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

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

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

9. Transitional services coordination projects. Shall participate in the coordination of rehabilitation services with local transitional services coordination projects for youth with disabilities, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

§1411-E. Acceptance of federal provisions

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

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

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

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

§1411-F. Receipt and disbursement of funds

The Treasurer of State is the appropriate officer of the State to receive and administer federal grants for rehabilitation programs, as contemplated by the Federal Rehabilitation Act and acts amendatory and additional to the Federal Rehabilitation Act, and the

State Controller shall authorize expenditures as approved by the department.

§1411-G. Gifts

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

§1411-H. Maintenance not assignable

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

§1411-I. Hearings and judicial review

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

§1412. Misuse of lists and records

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

§1412-A. Employees not to engage in political activities

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

§1412-B. Continuing study of rehabilitation needs

The department shall make continuing study of the needs of people with disabilities and disadvantaged individuals in the State and how these needs may be met most effectively. The study and planning must include appraisal of community rehabilitation programs in the State and their effectiveness and adequacy in meeting the overall needs of people with disabilities and disadvantaged. The continuing study and recommendations must be reflected in the biennial reports of the commissioner.

§1412-C. Bureau of Rehabilitation Services

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

§1412-D. Provision of rehabilitation services

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

§1412-E. Rules

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

§1412-F. 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.

Article II

DIVISION OF DEAFNESS

§1413. Division of Deafness

There is established the Division of Deafness within the Department of Labor, Bureau of Rehabilitation Services.

§1413-A. Definitions

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

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

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.

3. 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.

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 hard-of-hearing persons.

§1413-B. Powers and duties

To provide the following services and information to deaf and 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 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 hard-of-hearing persons developed in cooperation with various registries throughout the State. Use of this list is restricted by the provisions of section 1420;

3. Information and referral. Provide information and referral services to deaf and 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 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 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 hard-of-hearing persons; and

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

§1413-C. Advisory council

There is established within the Department of Labor, Bureau of Rehabilitation Services, Division of Deafness, an advisory council consisting of 24 members and 3 members-at-large appointed by the Director of the Bureau 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 Bureau of Rehabilitation Services, in conjunction with the Director of the Division of Deafness, shall appoint, from the advisory council, a chair and vice-chair to serve 2-year terms. The 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 council.

§1413-D. Advisory council: powers and duties

The advisory council shall advise the Director of the Bureau of Rehabilitation Services and shall

prepare an annual report, which is a public document to the extent that it complies with section 1412. The report must include, but is not limited to:

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

2. Recommendations. Recommendations for priorities for the development and coordination of services to deaf and 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 1413-B.

§1413-E. Director of the Division of Deafness

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

2. Director of the Division of Deafness; staff; qualifications. The Director of the Division of Deafness and the staff must be knowledgeable of the needs of the deaf and hard of hearing and possess the ability to communicate on a meaningful basis with those persons.

Article III

INDEPENDENT LIVING SERVICES FOR PEOPLE WITH DISABILITIES

§1414. Definitions

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

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

§1414-A. Grants

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

Article IV

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

§1415. Definitions

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

1. Bureau. "Bureau" means the Bureau of Rehabilitation Services in the Department of Labor.

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

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

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

B. Dressing;

C. Preparation and consumption of food;

D. Moving in and out of bed;

E. Routine bathing;

F. Ambulation; and

G. Any other similar function of daily living.

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

§1415-A. Subsidy

The bureau shall subsidize, in whole or in part, personal care assistance services for individuals eligible under section 1415-B. The amount of the subsidy for each hour of personal care assistance services is determined by the director of the bureau.

The director of the bureau shall establish a sliding scale for financial participation by individuals who receive subsidies for personal care assistance services under this article.

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

§1415-B. Eligibility

An individual is eligible for a subsidy under section 1415-A if that individual:

1. **Severe physical disability.** Has a severe physical disability;

2. **Employed.** Is employed or ready for employment;

3. **Need for services.** Has a need documented under section 1415-C for no fewer than 14 nor more than 35 hours a week of personal care assistance services, which services are necessary to enable the individual to be employed. The limitation of 35 hours may be exceeded as provided in section 1415-C;

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

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

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

§1415-C. Evaluation team report

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

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

that recommendation must be part of the report to the director.

3. **Redetermination.** An individual receiving a personal care assistance services subsidy under section 1415-A must be periodically reevaluated by an evaluation team to determine the individual's continuing need for personal care assistance services and the extent of that need.

§1415-D. Rules

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

Article V

ADVISORY COMMITTEE ON IMPROVING OUTDOOR RECREATIONAL OPPORTUNITIES FOR PERSONS WITH DISABILITIES

§1416. Definitions

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

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

§1416-A. Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities

The Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities, as established in Title 5, section 12004-I, subsection 54-A, is within the Bureau of Rehabilitation Services. The following provisions apply to the committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Duties. The committee shall:

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

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

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

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

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

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

Article VI

REHABILITATION SERVICES

§1417. Rehabilitation services

The department, under the direction of the Governor, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance for students with disabilities. That rehabilitation work must be in cooperation with vocational education, as provided by Title 20-A, chapter 313.

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

Article VII

SERVICES FOR BLIND AND VISUALLY IMPAIRED INDIVIDUALS

§1418. Definitions

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

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

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

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

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

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

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

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

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

§1418-A. Division for the Blind and Visually Impaired

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

§1418-B. Jurisdiction of director defined

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

§1418-C. Program established

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

§1418-D. Education of blind children

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

A. Itinerant teacher services;

B. Mobility instruction;

C. Braille instruction;

D. Low-vision services;

E. Special aids and supplies needed to participate in the educational process; and

F. Advocacy, counseling and guidance services to students and their parents.

2. School administrative units. Nothing in this section relieves school administrative units from fulfilling their responsibilities under Title 20-A, Part 4, subpart 1.

§1418-E. Mandatory report of blindness

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

§1418-F. 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 public building or property shall grant to the division authority:

1. Vending facility. To install in that building or property a vending facility whenever a vending facility may be operated by 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 a blind person is not warranted. Income from these vending

machines must be used for the purposes set forth in this section.

§1418-G. Preference

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

1. **Policies.** Adopt policies and take actions necessary to ensure that 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 managers and, after a determination that a facility may be operated by 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 article to the manager or managers affected. A vending machine that vends articles authorized for vending pursuant to section 1418, subsection 8 and is so located that it attracts customers who would otherwise patronize the vending facility is considered to be in reasonable proximity to and in direct competition with the vending facility;

4. **Licensing.** Inform the division not less than 60 days prior to the termination, issuance or renewal of a contract for the operation of a vending facility; and

5. **Vending machines.** Allow the division to place vending machines in a building where a vending facility operated by a manager would not be feasible. Income from these machines accrues to the division's set-aside account for purposes stated in section 1418-F.

§1418-H. Powers and duties of the division

In carrying out this article the division shall:

1. **Rules.** Prescribe rules governing:

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

B. A fair hearing. In the case of a manager desiring to appeal a decision, the division shall appoint a hearing board consisting of 3 persons, one to be chosen by the 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 managers;

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

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

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

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

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

§1418-I. Construction; remodeling; planning for vending facility

To carry out the purposes of this article, 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 blind persons.

§1418-J. Construction of buildings

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

§1418-K. Fees

A rental fee may not be required or received for the granting of authority to the division to operate a vending facility.

§1418-L. Correctional, mental and certain educational institutions

This article does not apply to or authorize the installation of vending facilities in a building wholly

used by a correctional or mental institution or by an educational institution of any type supported in whole or in part from public funds, unless that educational institution is a university, college, junior college or a technical college.

§1418-M. Application

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

Article VIII

DEAF AND HARD-OF-HEARING PERSONS

Subarticle 1

GENERAL PROVISIONS

§1419. General provisions

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

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

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

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

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

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

2. Teletypewriter system. The department shall consult with appropriate agencies and organizations serving the deaf community concerning the needs of the teletypewriter system. To the extent that funds are available, the department shall take steps necessary to preserve and maintain a viable teletypewriter system for use by the deaf population in

this State, including, but not limited to, providing for repair services and equipment for loaning to persons whose teletypewriter equipment is being repaired.

§1419-A. Telecommunication equipment for deaf, hard-of-hearing and speech-impaired persons

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

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

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

equipment. The criteria must take into account household income, degree of impairment, need for emergency communications, living arrangements and other factors determined relevant by the Division of Deafness.

Subarticle II

RIGHTS OF DEAF AND HARD-OF-HEARING PERSONS

§1420. Policy

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

§1420-A. Rights

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

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

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

3. Guide dogs. Every deaf or hard-of-hearing person has the right to be accompanied by a guide dog, described and known as a "hearing dog," especially trained for the purpose, and identified by a collar and leash colored hunter orange, as that color is defined in Title 12, section 7001, subsection 16, in a place listed in subsection 2 without being required to pay an extra charge for the guide dog, except that the person is liable for any damage done to the premises or facilities by that dog. When the deaf or hard-of-hearing person is accompanied by a guide dog, the person must also carry a card, issued by the Bureau of Rehabilitation Services, that states that the dog is an especially trained guide dog and cites section 1420 and this section that allow for access by the person

and the person's dog to streets, public places and public conveyances.

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

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

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

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

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

§1420-B. Motor vehicle drivers

The driver of a vehicle approaching a deaf or hard-of-hearing person using a properly identified guide dog shall take all necessary precautions to avoid injury to that person and the guide dog. A driver who fails to take such precautions is liable in damages for any injury caused to that person or dog. A deaf or hard-of-hearing person not using a guide dog in any of the places, accommodations or conveyances listed in section 1420-A has all of the rights and privileges conferred by law upon other persons. The failure of a deaf or hard-of-hearing person to use a guide dog in those places, accommodations or conveyances does

not constitute nor is it evidence of contributory negligence.

§1420-C. Penalty; misrepresentation of hearing dog

A person or the person's agent who denies or interferes with admittance to or enjoyment of the public facilities described in section 1420-A or otherwise interferes with the rights of a deaf or hard-of-hearing person under section 1420-A commits a Class E crime.

A person who fits a dog with a collar and leash of the type required by section 1420-A, subsection 3 in order to represent that the dog is a hearing dog when training of the type that a hearing dog normally receives has not in fact been provided commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

Article IX

PERSONAL CARE ASSISTANCE SERVICES FOR ADULTS WITH SEVERE PHYSICAL DISABILITIES

§1421. Program established

The department shall establish a program of personal care assistance services, including consumer-directed personal care assistance services, for adults with long-term care needs who are eligible under section 1421-A.

§1421-A. Eligibility

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

- 1. Severe disability.** Has a severe disability;
- 2. Need for services.** Needs personal care assistance services or an attendant at night, or both, which services are necessary to prevent, or remove the adult from, inappropriate placement in an institutional setting; and
- 3. Income and support.** Has no or insufficient personal income or other support from public services, family members and neighbors. A sliding scale must be established for services provided under this article. The sliding scale must be based on the net income of individuals who receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual.

§1421-B. Evaluation teams

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

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

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

- A.** Determine the eligibility of the adult for personal care assistance services;
- B.** Determine the capability of the adult, at the time of evaluation or after skills training provided pursuant to subsection 4, to hire and direct a personal care assistant;
- C.** Reevaluate the adult periodically to determine the adult's continuing need for the services; and
- D.** Consult when possible with the adult's attending physician.

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

- A.** Personal health management to maximize personal well-being in relation to the adult's disability, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled, including all aspects of prevention, maintenance and treatment techniques;
- B.** Personal care assistant management, provided by a registered nurse experienced in the rehabilitation of the severely disabled, including training in recruiting, hiring and managing a personal care assistant; scheduling; and potential problems; and
- C.** Functional skills required to maximize the adult's abilities in activities of daily living, provided by a registered occupational therapist experienced in the rehabilitation of the severely disabled.

Sec. F-14. 26 MRSA §475, 2nd ¶, as amended by PL 1993, c. 708, Pt. J, §8, is further amended to read:

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

Sec. F-15. 35-A MRSA §7302, sub-§1, as repealed and replaced by PL 1995, c. 462, Pt. A, §66, is amended to read:

1. Rate reduction. The commission shall establish a 70% rate reduction for intrastate toll calls made on lines, or via credit cards assigned to lines, used for making calls 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~~ Labor 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~~ Labor 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. F-16. Transition provisions: Division for the Blind and Visually Impaired; and Office of Rehabilitation Services of the Department of Education

1. Funds transferred. Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues and other available funds in any account or subdivision of any account of the Division for the Blind and Visually Impaired and the Office of Rehabilitation Services of the Department of Education or any subunit of those offices affected by this Part are transferred to the Department of Labor as required by the assignment of responsibilities of this Part.

2. Personnel and employment benefits transferred. All employees of the Division for the Blind and Visually Impaired and the Office of Rehabilitation Services of the Department of Education or any subunit of those offices are transferred to the Department of Labor as required by the assignment of responsibilities of this Part.

3. Equipment and property transferred. All equipment, records and property of the State used by employees and officials of the Division for the Blind and Visually Impaired and the Office of Rehabilitation Services of the Department of Education or any subunit of those offices are transferred to the Department of Labor as required by the assignment of responsibilities of this Part.

4. Financial order required. The Commissioner of Labor and the Commissioner of Education shall jointly request, by financial order through the State Budget Office, the Governor's approval of the funds, positions, equipment and property to be transferred.

5. Rules and procedures. All rules and procedures currently in effect and in operation pertaining to the Division for the Blind and Visually Impaired and the Office of Rehabilitation Services of the Department of Education or any subunit of those offices remain in effect until rescinded or amended as provided by state law.

6. Contracts and agreements. All contracts and agreements currently in effect with respect to the Division for the Blind and Visually Impaired and the Office of Rehabilitation Services of the Department of Education or any subunit of those offices remain in effect until rescinded, terminated or modified as provided by state law.

7. Organization and operation. Notwithstanding any other provision of law, any planning or preparatory work may occur prior to the effective date of this Part, but is not binding until the effective date of this Part.

Sec. F-17. Memorandum of agreement. The Commissioner of Education and the Commissioner of Labor shall jointly establish a memorandum of agreement that guarantees continuing support and assistance from the Department of Education to the education programs of the Division for the Blind and Visually Impaired. The memorandum of agreement must be developed with input from all identifiable groups and individuals with an interest in the division.

Sec. F-18. Report. The Commissioner of Education and the Commissioner of Labor shall jointly report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs no later than January 15, 1997 on the status of the transfer of the Office of Rehabilitation Services and the development of the memorandum of agreement established pursuant to section 17 of this Part.

PART G

Sec. G-1. 4 MRSA §807, sub-§3, ¶F, as repealed and replaced by PL 1989, c. 755, is amended to read:

F. A person who is not an attorney, but is representing the Bureau of ~~Employment Security Unemployment Compensation~~ or the Bureau of Taxation under section 807-A;

Sec. G-2. 4 MRSA §807-A, as amended by PL 1989, c. 508, §1, is further amended to read:

§807-A. Representation by Bureau of Unemployment Compensation or Bureau of Taxation employees

Upon the promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of ~~Employment Security Unemployment Compensation~~ may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes and overpayments for which warrants have been issued pursuant to Title 26, chapter 13.

Upon promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Bureau of Taxation may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes for which warrants have been issued pursuant to Title 36, and may

represent the State Tax Assessor in arraignment proceedings in District Court in cases in which a criminal complaint has been filed alleging violation of Title 36, section 2113, 3234 or 5332.

If the Supreme Judicial Court adopts rules under this section, the rules ~~shall~~ must include the establishment of standards and a method to certify employees of the Bureau of ~~Employment Security Unemployment Compensation~~ and the Bureau of Taxation who may represent the State in court under this section as being familiar with court procedures.

Sec. G-3. 5 MRSA §943, as amended by PL 1995, c. 462, Pt. B, §1, is further amended to read:

§943. Department of Labor

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

B. Director, Bureau of Labor Standards;

C. Executive Director, Maine Labor Relations Board;

D. Assistant to the Commissioner;

E. Assistant to the Commissioner for Public Affairs;

~~F. Director, Planning and Program Services;~~

F-1. Director, Grants Management;

~~G. Executive Director, Bureau of Employment Security;~~

G-1. Beginning April 15, 1996, Executive Director, Bureau of Employment Services;

~~H. Executive Secretary, Maine Occupational Information Coordinating Committee; and~~

~~I. Executive Director, Bureau of Employment Training Programs.~~

J. Executive Director, Office of Operations; and

K. Director, Bureau of Rehabilitation Services.

Sec. G-4. 5 MRSA §7036, sub-§12, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

12. Coordinate and use State Government services. Coordinate and use the services available to State Government to create an effective, motivated state employee labor force, including the services of

the ~~Maine Job Service~~ Bureau of Employment Services; the Welfare Employment, Education and Training, WEET, program of the Department of Human Services; and any other services that are appropriate to the purpose of the Bureau of Human Resources;

Sec. G-5. 20-A MRSA §12704, sub-§2, ¶D, as enacted by PL 1985, c. 695, §11, is amended to read:

D. The employment and training programs funded under the United States Job Training Partnership Act, Public Law 97-300, or its successor, and overseen by the Department of Labor, Bureau of Employment Services, or its successor; and

Sec. G-6. 20-A MRSA §12709, sub-§11, as amended by PL 1989, c. 700, Pt. A, §68 and Pt. B, §46, is further amended to read:

11. Interagency cooperation and communication. To promote cooperation and communication with the Department of Education and the Bureau of Employment and Training Programs Services, or their successors, with the University of Maine System and with other public and private educational and training institutions;

Sec. G-7. 20-A MRSA §12727, sub-§2, as enacted by PL 1993, c. 707, Pt. CC, §1, is amended to read:

2. Recruitment and screening. Recruitment of trainees and preliminary screening and testing for programs developed through the centers must be conducted by the technical colleges in conjunction with the ~~Maine Job Service~~ Bureau of Employment Services, state job training providers, human service offices and other referring agencies.

Sec. G-8. 24-A MRSA §2386, sub-§7, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is amended to read:

7. Mandatory deductible. A deductible applies to all workers' compensation insurance policies issued to employers in the Accident Prevention Account that meet the following qualifications:

- A. A net annual premium of \$20,000 or more subject to adjustment pursuant to this section in the State;
- B. A premium not subject to retrospective rating; and
- C. The employer's threshold loss ratio, as determined under subsection 4, paragraph B, subparagraph (1), is 1.0 or greater.

The deductible is \$1,000 per claim but applies only to wage loss benefits paid on injuries occurring during the policy year. ~~In no event may the~~ The sum of all deductibles in one policy year may not exceed the lesser of 15% of net annual premium or \$25,000. Each loss to which a deductible applies must be paid in full by the insurer. After the policy year has expired, the employer shall reimburse the insurer the amount of the deductibles. This reimbursement must be considered as premium for purposes of cancellation or nonrenewal.

For purposes of calculations required under this section, losses must be evaluated 60 days from the close of the policy year.

Annually, on July 1st, the superintendent shall, by rule, adjust the \$20,000 premium level established in this subsection to reflect any change in rates for the Accident Prevention Account and any change in wage levels in the preceding calendar year. Changes in wage levels are determined by reference to changes in the state average weekly wage, as computed by the Department of Labor, ~~Bureau of Employment Security~~. Any adjustment is rounded off to the nearest \$1,000 increment.

This subsection takes effect on the effective date of the first approved rate filing after the effective date of this Act.

Sec. G-9. 24-A MRSA §3712, sub-§3, ¶E, as enacted by PL 1991, c. 885, Pt. C, §8, is amended to read:

E. Deductibles in the high-risk division are subject to this paragraph.

(1) A deductible applies to all coverage for policyholders in the high-risk division that meet the following qualifications:

- (a) A net annual premium of \$20,000 or more subject to adjustment, pursuant to this section, in the State;
- (b) A premium not subject to retrospective rating; and
- (c) The policyholder's threshold loss ratio, as determined under paragraph D, subparagraph (1), is 1.0 or greater.

The deductible is \$1,000 a claim but applies only to wage loss benefits paid on injuries occurring during the year of coverage. The sum of all deductibles in one year of coverage may not exceed the lesser of 15% of net annual payment for coverage or \$25,000. Each loss to which a deductible applies must be paid in full by the company. After

the year of coverage has expired, the policyholder shall reimburse the company the amount of the deductibles. This reimbursement is considered as payment for coverage for purposes of cancellation or nonrenewal.

Unless otherwise acted upon as provided for in subsection 2, beginning October 1, 1996, the board shall adjust, annually, the \$20,000 payment of coverage level established in this subsection to reflect any change in rates for the high-risk division and any change in wage levels in the preceding calendar year. Changes in wage levels are determined by reference to changes in the state average weekly wage, as computed by the Department of Labor, ~~Bureau of Employment Security~~. Any adjustment is rounded off to the nearest \$1,000 increment.

(2) For policies effective on or after January 1, 1994, the board may modify, with the approval of the superintendent, the mandatory deductible elements. Any modification or elimination of this rating feature must consider the incentive impact on an employer, the reasonableness of the retained cost relative to the claim history, safety record or claims management practices of impacted employers and the ability of employers of all sizes to absorb these costs.

Sec. G-10. 26 MRSA §1043, sub-§5-A, as enacted by PL 1979, c. 651, §4, is repealed and the following enacted in its place:

5-A. Bureau of Unemployment Compensation. "Bureau" means the Bureau of Unemployment Compensation, the former Division of Unemployment Compensation in the Bureau of Employment Security.

Sec. G-11. 26 MRSA §1082, sub-§1, as amended by PL 1993, c. 710, §1, is further amended to read:

1. Powers and duties of the commissioner. Except as otherwise provided, it is the duty of the Commissioner of Labor to administer this chapter, through an organization to be known as the Bureau of ~~Employment Security~~ Unemployment Compensation. ~~The commissioner shall appoint a Director of Employment Security to serve at the commissioner's pleasure.~~ The commissioner may employ persons, make expenditures, require reports, make investigations and take other actions the commissioner determines necessary or suitable to that end. The commissioner is responsible and possesses the necessary authority for the operation and management

of the Bureau of ~~Employment Security~~ Unemployment Compensation. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter. The commissioner may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to achieve this purpose, except rules pertaining to unemployment insurance as provided in subsection 2. The commissioner may adopt rules with respect to a self-employment assistance program as provided in section 1197. The commissioner shall determine methods of operational procedures in accordance with the provisions of this chapter and by the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall make recommendations for amendments to this chapter that the commissioner determines proper. When the commissioner believes that a change in contribution or benefit rates is necessary to protect the solvency of the fund, the commissioner shall promptly inform the Governor and the Legislature and make recommendations with respect to the change in rates.

Sec. G-12. 26 MRSA §1084, sub-§1, as enacted by PL 1981, c. 648, is amended to read:

1. Authorization. The legislative body of a municipality may authorize its municipal officers or their designee to enter into an agreement, not financed by the State, with the ~~Director of the Maine Job Service or the Executive Director of the Bureau of Employment Security~~ commissioner for the purpose of providing job services or job service facilities, or both.

Sec. G-13. 26 MRSA §1230, sub-§4, ¶A, as amended by PL 1983, c. 351, §36, is further amended to read:

A. The warrant ~~shall have~~ has the force and effect of an execution issued upon a judgment in a civil action for the collection of taxes and benefit overpayments and may be in substantially the following form:

"..... (Name of County) SS. -- To the sheriffs of our respective counties or their deputies or any agent of the Commissioner of Labor

Whereas, the Bureau of ~~Employment Security~~ Unemployment Compensation or the Attorney General have certified that, pursuant to the terms of Title 26, section 1230, subsection 1, or section 1051, subsection 6, of the Revised Statutes, the amount of certain unemployment compensation tax, or benefit overpayment, assessed against of with interest and penalties, has become final as to law and fact, to wit:

Period	Con- tribu- tions	Benefit Over pay- ment	Inter- rest	Penal- ties	Weeks Involved
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Interest will accrue at \$.00 per day for each day after

Total \$ and \$ costs of this proceeding,

We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the Bureau of ~~Employment Security~~ Unemployment Compensation, to satisfy the sums aforesaid and cents more for this warrant, together with your own fees.

Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within one year from the date hereof.

.....

Clerk of Courts, County of

.....

Date....."

Sec. G-14. 26 MRSA §1401, as amended by PL 1987, c. 542, Pt. F, §§1,2 and 5, is repealed.

Sec. G-15. 26 MRSA §§1401-A and 1401-B are enacted to read:

§1401-A. Department; commissioner

1. Establishment. There is created and established the Department of Labor, referred to in this chapter as the "department," to achieve the most effective utilization of the employment and training resources in the State by developing and maintaining an accountable state employment and training policy, by ensuring safe working conditions and protection against loss of income and by enhancing the opportunities of individuals to improve their economic status.

2. Commissioner; entities incorporated. The department consists of a Commissioner of Labor, referred to in this chapter as the "commissioner," appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over labor 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 Labor:

A. The Bureau of Unemployment Compensation;

B. Beginning April 15, 1996, the Bureau of Employment Services;

C. The Bureau of Labor Standards;

D. The Bureau of Rehabilitation Services;

E. The Division of Administrative Hearings;

F. The Division of Labor Market Information Services;

G. The Human Resource Development Council; and

H. The Private Industry Council staff.

The Department of Labor may consist of other advisory, planning and coordinating council staff, and such other advisory, planning and coordinating committees or administrative units as the commissioner determines necessary to carry out the purposes of this chapter.

§1401-B. Commissioner

The Commissioner of Labor is entitled to receive a fixed weekly salary in accordance with Title 2, section 6, and must be paid from the administrative funds of the Bureau of Employment Services, the Bureau of Unemployment Compensation, the Bureau of Labor Standards, the Bureau of Rehabilitation Services and from other program administrative funds that the commissioner is authorized by statute or Executive Order to administer. The commissioner may establish an Office of the Commissioner, consisting of such personnel as determined necessary to carry out the duties and responsibilities of the commissioner, and paid from administrative funds from programs that the commissioner is authorized to administer.

1. Duties. The commissioner has the following duties.

A. The commissioner shall prepare a budget for the department.

B. The commissioner shall appoint to serve at the commissioner's pleasure:

(1) Assistant to the Commissioner;

(2) Assistant to the Commissioner for Public Affairs;

(3) Director, Grants Management;

(4) Director, Bureau of Labor Standards;

(5) Beginning April 15, 1996, Executive Director, Bureau of Employment Services;

(6) Executive Director, Office of Operations; and

(7) Director, Bureau of Rehabilitation Services.

The commissioner may appoint, subject to the Civil Service Law, such other personnel as may be necessary to carry out the functions of the department. The commissioner may transfer personnel within the department to ensure the efficient utilization of department personnel. The commissioner may require reports and take other actions necessary to carry out the functions of the department.

2. Purchase. The commissioner shall coordinate the purchase and use of all department equipment.

3. Review. The commissioner shall review the functions and operations of the department to ensure that overlapping functions and operations are brought to the attention of the Governor and the Legislature.

4. Data collection. The commissioner shall conduct a survey of manufacturing and nonmanufacturing industries throughout the State once every 2 years to determine hourly occupational wage rates by gender.

5. Dispute resolution services. The commissioner may provide, by agreement with other agencies, dispute resolution services, including, but not limited to, adjudicatory proceedings, mediation and other alternative dispute resolution techniques.

Sec. G-16. 26 MRSA §1452, as amended by PL 1989, c. 700, Pt. A, §106, is further amended to read:

§1452. Maine Occupational Information Coordinating Committee

The Maine Occupational Information Coordinating Committee, as established by Title 5, chapter 379, shall support the development, maintenance and operation of the Comprehensive Career, Occupational and Economic Data-based System and foster communication and coordination of education, employment and training programs through the use of the system. The committee's responsibilities are under the administrative control of the Bureau of Employment Services. ~~The committee shall consist~~ consists of the Commissioner of Labor, Commissioner of Human Services, Commissioner of Education, Commissioner of Economic and Community Development, Director of the State Planning Office and the chairs of the Maine Human Resource Development Council, the

State Board of Education and the Board of Trustees of the Maine Technical College System. The Commissioner of Labor and the Commissioner of Education may serve as the representatives of the chairs of the Maine Human Resource Development Council and the State Board of Education, respectively, upon the agreement of that designation by the Maine Human Resource Development Council and the State Board of Education. The Commissioner of Labor ~~shall be~~ is the chair of the committee, with the Department of Labor serving as the fiscal agent for the committee.

Sec. G-17. 26 MRSA §1454, as amended by PL 1985, c. 785, Pt. B, §122, is further amended to read:

§1454. Operational authority

~~The chairman shall nominate an executive director for appointment by the committee, who shall serve at the committee's pleasure. With the committee's approval, the executive director~~ The Executive Director of the Bureau of Employment Services may appoint, subject to the Civil Service Law, such personnel as are necessary to carry out the functions of the committee and who are authorized by the committee.

The committee may accept gifts, grants or other ~~moneys~~ money from any source and may enter into contracts, charge fees and make grants for services consistent with this chapter.

Sec. G-18. 32 MRSA §14055, sub-§3, ¶B, as enacted by PL 1991, c. 468, §4 and affected by §6, is amended to read:

B. The employee leasing company shall report all unemployment contributions due under its state employer identification number, using its contribution rate. The employee leasing company shall keep separate records and submit separate quarterly wage reports to the Bureau of ~~Employment Security~~ Unemployment Compensation for each of its client companies.

Sec. G-19. 36 MRSA §5215, sub-§2, ¶B, as amended by PL 1993, c. 672, §1 and affected by §2, is further amended to read:

B. The term "new jobs credit base" means the excess of ~~Maine Employment Security Commission~~ Bureau of Unemployment Compensation wages for the taxable year of the qualified investment or either of the next 2 calendar years over the ~~Maine Employment Security Commission~~ Bureau of Unemployment Compensation wages for the highest of the 3 calendar years preceding the year of the qualified investment. In computing its new jobs credit base, a successor-taxpayer shall add to its own ~~Maine Employment~~

~~Security Commission~~ Bureau of Unemployment Compensation wages the ~~Maine Employment Security Commission~~ Bureau of Unemployment Compensation wages of its predecessor.

Sec. G-20. 36 MRSA §5215, sub-§2, ¶C, as enacted by PL 1977, c. 722, is amended to read:

C. The term "~~Maine Employment Security Commission~~ Bureau of Unemployment Compensation wages" means the total amount of wages paid by an employer subject to tax under Title 26, section 1221, less any excesses attributable to statutory increases.

Sec. G-21. 39-A MRSA §102, sub-§4, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. "Average weekly wages, earnings or salary" of an injured employee means the amount that the employee was receiving at the time of the injury for the hours and days constituting a regular full working week in the employment or occupation in which the employee was engaged when injured; except that this does not include any reasonable and customary allowance given to the employee by the employer for the purchase, maintenance or use of any chainsaws or skidders used in the employee's occupation if that employment or occupation had continued on the part of the employer for at least 200 full working days during the year immediately preceding that injury. For purposes of this paragraph, "reasonable and customary allowance" is the allowance provided in a negotiated contract between the employee and the employer or, if not provided for by a negotiated contract, an allowance determined by the Department of Labor, ~~Bureau of Employment Security~~. In the case of piece workers and other employees whose wages during that year have generally varied from week to week, wages are averaged in accordance with the method provided under paragraph B.

Sec. G-22. 39-A MRSA §211, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§211. Maximum benefit levels

Effective January 1, 1993, the maximum weekly benefit payable under section 212, 213 or 215 is \$441 or 90% of state average weekly wage, whichever is higher. Beginning on July 1, 1994, the maximum benefit level is the higher of \$441 or 90% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the ~~Bureau of Employment Security~~ Department of Labor.

Sec. G-23. 39-A MRSA §214, sub-§1, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. If an employee receives a bona fide offer of reasonable employment from the previous employer or another employer or through the Bureau of Employment ~~Security Services~~ and the employee refuses that employment without good and reasonable cause, the employee is considered to have voluntarily withdrawn from the work force and is no longer entitled to any wage loss benefits under this Act during the period of the refusal.

Sec. G-24. 39-A MRSA §214, sub-§§2, 3 and 4, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, are amended to read:

2. Notice to Bureau of Employment Services. An insurance carrier or self-insurer shall notify the Bureau of Employment ~~Security Services~~ of the name of any injured employee who is unemployed and to whom the insurance carrier or self-insurer is paying benefits under this Act.

3. Priority. The Bureau of Employment ~~Security Services~~ shall give priority to finding employment for those persons whose names are supplied under subsection 2.

4. Notice of refusal; termination of benefits. The Bureau of Employment ~~Security Services~~ shall notify the board in writing of the name of any employee who refuses any bona fide offer of reasonable employment. Upon notification to the board, the board shall notify the insurance carrier or self-insurer who shall terminate the benefits of the employee pursuant to subsection 1, paragraph A.

Sec. G-25. 39-A MRSA §352, sub-§6, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

6. Monitoring of lump-sum settlement recipients. The board shall establish and maintain a program to monitor the postsettlement employment experience of employees who settle their claims pursuant to this section to help develop future policy. The ~~Bureau of Employment Security~~ Department of Labor shall cooperate with the board in the establishment and operation of this monitoring program.

Sec. G-26. 39-A MRSA §356, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

2. Death of an employee. In every case of the death of any employee when there is no person entitled to compensation, the employer shall pay to the Treasurer of State a sum equal to 100 times the

average weekly wage in the State as computed by the ~~Employment Security Commission~~ Department of Labor to be credited to the Employment Rehabilitation Fund.

Sec. G-27. 39-A MRSA §403, sub-§5, ¶F, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

F. If an employer is a partnership or a sole proprietorship and is a member of a self-insurance group associated pursuant to this section, the employer may elect to include as an employee any member of the partnership or owner of the sole proprietorship for purposes of obtaining workers' compensation coverage under this Act. In the event of such an election, the electing employer shall serve upon the group self-insurance association written notice naming the partner or sole proprietor to be covered, and an election is deemed not to have been made within this Act until such notice has been given. By making such an election, the partnership member or sole proprietor is deemed to have stipulated that for premium payment purposes the annual salary or wage of the electing partnership member or sole proprietor is the average weekly wage in the State as computed by the ~~Bureau of Employment Security~~ Department of Labor multiplied by 52 and rounded to the nearest \$100. The assumed average annual wage must be adjusted as of July 1st using the average weekly wage from the prior calendar year.

Sec. G-28. 39-A MRSA §614, sub-§7, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. If an employee is determined to be entitled to compensation for periods of total incapacity occurring on or after October 1, 1983, or if a dependent of an employee is determined to be entitled to full death benefits for periods occurring on or after October 1, 1983, and the employee became incapacitated or died on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to 2/3 of the average weekly wage in the State, as computed by the ~~Bureau of Employment Security~~ Department of Labor, that exists on the date the worker files a claim for compensation. If an employee is determined to be entitled to compensation for periods of partial incapacity occurring on or after October 1, 1983, and the employee became incapacitated on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to 2/3 of the difference, due to the injury, between the average weekly wage in the State, as computed by the ~~Bureau of Employment~~

Security Department of Labor, that exists on the date the worker files a claim for compensation and the weekly wages, earnings or salary that the employee is able to earn after the claim is filed. If a dependent of an employee is determined to be entitled to partial death benefits for periods occurring on or after October 1, 1983 and the employee died on or after November 30, 1967 and before January 1, 1972, then the weekly compensation paid is equal to the same proportion of the weekly payment provided in this paragraph for full death benefits, as the total amount contributed by the employee to such partial dependents for their support during the year prior to incapacity bears to the employee's earnings during that period.

Sec. G-29. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 5, section 7036, subsection 12; Title 20-A, section 12704, subsection 2, paragraph D; Title 20-A, section 12709, subsection 11; Title 20-A, section 12727, subsection 2; Title 26, section 1452; Title 26, section 1454; Title 39-A, section 102, subsection 4, paragraph A; Title 39-A, section 214, subsection 1, paragraph A; and Title 39-A, section 214, subsections 2, 3 and 4 take effect April 15, 1996.

PART H

Sec. H-1. 5 MRSA §12004-A, sub-§7, as enacted by PL 1987, c. 786, §5, is amended to read:

7. Board Expenses	26 MRSA §171-
of Boiler Rules Only	<u>32 MRSA §15103</u>

Sec. H-2. 5 MRSA §12004-A, sub-§14, as amended by PL 1989, c. 503, Pt. A, §2, is further amended to read:

14. Board of Elevator and Tramway Safety	Expenses Only	26 MRSA §475-
		<u>32 MRSA §15205</u>

Sec. H-3. 10 MRSA §8001, sub-§38, ¶¶II and JJ, as enacted by PL 1995, c. 502, Pt. H, §8, are amended to read:

II. Propane and Natural Gas Board; ~~and~~

JJ. Real Estate Commission;

Sec. H-4. 10 MRSA §8001, sub-§38, ¶¶KK and LL are enacted to read:

KK. Board of Boiler Rules; and

LL. Board of Elevator and Tramway Safety.

Sec. H-5. 14 MRSA §752-B, as amended by PL 1979, c. 514, §2, is further amended to read:

§752-B. Ski areas

All civil actions for property damage, bodily injury or death against a ski area owner or operator or tramway owner or operator or its employees, as defined under Title ~~26~~ 32, chapter ~~5~~, subchapter ~~V-A~~ 133, whether based on tort or breach of contract or otherwise, arising out of participation in skiing or ~~hang gliding~~ hang gliding or the use of a tramway associated with skiing or ~~hang gliding~~ hang gliding shall hang gliding must be commenced within 2 years after the cause of action accrues.

Sec. H-6. 17 MRSA §2509, as amended by PL 1979, c. 127, §121, is further amended to read:

§2509. Tampering with passenger tramway

Whoever ~~shall~~ willfully ~~break, injure, tamper~~ breaks, injures or tampers with or ~~remove~~ removes part or parts of any tramway as defined in Title ~~26~~ 32, section ~~472~~ 15202, shall must be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

Sec. H-7. 26 MRSA §41, as amended by PL 1989, c. 410, §24, is further amended to read:

§41. Director; personnel; salaries; expenses

~~A~~ The Bureau of Labor Standards within the Department of Labor, as ~~heretofore~~ established and ~~hereinafter referred to~~ in this Title called as the "bureau," shall ~~be~~ is maintained under the direction of an officer whose title ~~shall be~~ is Director of Labor Standards and state factory inspector, ~~hereinafter referred to~~ in this Title, except in chapter 13, called as the "director." The director ~~shall be~~ is appointed by the Commissioner of Labor and ~~shall hold~~ holds office at the pleasure of the commissioner. The director ~~shall have~~ has an office at the seat of government. The director shall appoint, subject to the Civil Service Law, such employees as may be necessary ~~and a deputy who shall be clerk of the bureau and deputy state factory inspector.~~

Sec. H-8. 26 MRSA c. 5, sub-c. II, as amended, is repealed.

Sec. H-9. 26 MRSA c. 5, sub-c. V-A, as amended, is repealed.

Sec. H-10. 26 MRSA §569, as amended by PL 1979, c. 541, Pt. A, §169, is further amended to read:

§569. Rules

The rules ~~and regulations~~ formulated under this chapter may supplement, but ~~shall in no manner do not~~ supersede, the rules ~~and regulations~~ duly promulgated adopted by the Board of Boiler Rules and

the Board of Elevator and Tramway Safety, whose rulemaking authority is clearly set forth in ~~sections 173 and 476~~ Title 32, chapters 131 and 133, respectively, and the rules ~~and regulations~~ duly promulgated adopted by the Department of Human Services under the laws administered by that department. All rules ~~and regulations~~ shall must be adopted pursuant to Title 5, section 8051 ~~et seq~~ the Maine Administrative Procedure Act.

Sec. H-11. 26 MRSA §2106, as repealed and replaced by PL 1987, c. 769, Pt. A, §110, is amended to read:

§2106. Inspection by and assistance of Bureau of Labor Standards

The Bureau of Labor Standards shall inspect ~~each fire department at least once every 2 years~~ departments to determine compliance with this chapter. The bureau shall assist fire departments in complying with this chapter.

Sec. H-12. 32 MRSA §1102, sub-§6, as amended by PL 1995, c. 114, §2, is further amended to read:

6. Elevator mechanics. Any person licensed under Title ~~26~~, sections ~~484 to 487~~ 32, chapter 133 subject to the restrictions of the license as issued;

Sec. H-13. 32 MRSA §2401-A, sub-§4, as enacted by PL 1979, c. 569, §13, is amended to read:

4. Engineers and operators. A person holding an engineer's license issued under Title ~~26~~, section ~~478~~ 15109, or working under the general supervision of one so licensed while performing ~~such~~ oil or solid fuel burner repair and maintenance as is necessary in the steam or heating plant where ~~he~~ that person is employed, ~~provided such if~~ that work is performed in compliance with section 2313, or a person employed by companies under the jurisdiction of the Public Utilities Commission or the United States Nuclear Regulatory Commission whose facilities are subject to inspection under Title 26, chapter 5, subchapter II, Article 4;

Sec. H-14. 32 MRSA cc. 131 and 133 are enacted to read:

CHAPTER 131**BOILER AND PRESSURE VESSEL
INSTALLERS AND OPERATORS****§15101. Definitions**

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

1. Approved. "Approved" means approved by the board.

2. Authorized inspector. "Authorized inspector" means a person holding a certificate of authority to inspect boilers within this State issued under section 15107 or a person, employed by a company licensed to insure boilers in this State, holding a certificate to inspect boilers within this State issued under section 15120.

3. Board. "Board" means the Board of Boiler Rules.

4. Chief inspector. "Chief inspector" means the Chief Inspector of Boilers approved under section 15106.

5. Code. "Code" means the boiler and pressure vessel code of the American Society of Mechanical Engineers and amendments and interpretations made and approved by the council of the society.

6. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

7. Department. "Department" means the Department of Professional and Financial Regulation.

8. Deputy inspector. "Deputy inspector" means a person, employed by the State and supervised by the chief inspector, authorized to inspect boilers within this State.

9. Miniature boiler. "Miniature boiler" means a boiler as defined by the code.

10. Schoolhouse. "Schoolhouse" includes, but is not limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums or dormitories.

§15102. Exemptions

1. Boilers. This chapter does not apply to:

A. Boilers that are under federal control;

B. Boilers used solely for propelling motor road vehicles;

C. Boilers of steam fire engines brought into the State for temporary use in times of emergency to check conflagrations;

D. Boilers used for agricultural purposes only;

E. Steam heating boilers, hot water heating boilers and hot water supply boilers, except boilers located in schoolhouses or boilers owned by municipalities, constructed and installed in accordance with the rules adopted by the board; or

F. Miniature boilers exempt by section 15118.

2. Pressure vessels. This chapter does not apply to:

A. Pressure vessels that are under federal control;

B. Pressure vessels used for the transportation and storage of compressed or liquefied gases constructed in compliance with specifications of the United States Department of Transportation;

C. Pressure vessels located on vehicles operating under the rules of other state authorities and used for carrying passengers or freight;

D. Pressure vessels installed on the right-of-way of railroads and used directly in the operation of trains;

E. Pressure vessels used solely for agricultural purposes on farms;

F. Pressure vessels located in private residences and apartment houses with fewer than 6 apartments;

G. Pressure vessels having an internal or external operating pressure not exceeding 15 pounds per square inch;

H. Vessels for containing water under pressure, including those containing air, the compression of which serves only as a cushion, when neither of the following limitations is exceeded:

(1) A design pressure of 300 pressure pounds per square inch; or

(2) A design temperature of 210 degrees Fahrenheit;

I. Pressure vessels containing water heated by steam or any other direct or indirect means when none of the following limitations are exceeded:

(1) A heat input of 200,000 British thermal units per hour;

(2) A water temperature of 200 degrees Fahrenheit; or

(3) A normal water-containing capacity of 120 gallons;

J. Pressure vessels that do not exceed:

(1) Five cubic feet in volume and 250 pounds per square inch gauge pressure;

(2) One and 1/2 cubic feet in volume and 600 pounds per square inch gauge pressure; or

(3) An inside diameter of 6 inches with no limitation on pressure; or

K. Pressure vessels that are used as an integral part of a circuit breaker or transformer.

§15103. Board of Boiler Rules

1. Membership. The Board of Boiler Rules, as established by Title 5, section 12004-A, subsection 7, consists of 7 members appointed by the Governor. Of these 7 appointed members, 2 must be representatives of labor within this State who are boilermakers or have boiler licenses, one must be a representative of the owners and users of steam boilers within this State, one must be a representative of the boiler manufacturers within this State, one must be a representative of the operating steam engineers in this State, one must be a representative of a boiler inspection and insurance company licensed to do business within the State and one must be a representative of the public. The board shall annually elect a chair from its membership. Appointments are for 3-year terms. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.

2. Compensation. The members of the board are entitled to compensation according to the provisions of Title 5, chapter 379.

3. Meetings. The board shall meet at least twice yearly.

4. Records. The board shall keep a complete record of the type, dimensions, age, conditions, pressure allowed upon, location and date of last inspection of all boilers to which this chapter applies.

§15104. Rules

The board shall adopt rules for the safe and proper construction, installation, repair, use and operation of boilers and pressure vessels in this State. The rules must conform as nearly as practicable to the code.

Rules adopted by the board may not take effect sooner than 90 days after the date on which they are adopted. Any change in the rules that would raise the standards governing the methods of construction of new boilers and pressure vessels or the quality of material used in them may not take effect sooner than 6 months after the date of adoption of a change in the rules. All rules must be adopted pursuant to the Maine Administrative Procedure Act.

The board shall publish and distribute among boiler manufacturers and others requesting them copies of the rules adopted by the board at a cost sufficient only to cover the printing and mailing expenses of distribution.

§15105. Installation of new boilers and pressure vessels

A new boiler or pressure vessel that does not conform to the rules adopted by the board governing new installations may not be installed in this State.

Unless otherwise exempt, all new boilers and pressure vessels to be installed must be inspected during construction by an inspector authorized to inspect boilers in this State, or, if constructed outside the State, by an inspector holding a certificate of authority from the chief inspector of this State or an inspector who holds a certificate of inspection issued by the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization.

§15106. Chief and deputy inspectors

The commissioner shall appoint, with the approval of the Governor, and may remove for cause when so appointed, a citizen of this State to be Chief Inspector of Boilers at any time the office may become vacant. The Chief Inspector of Boilers must have, at the time of the appointment, not fewer than 5 years' practical experience with steam boilers as a steam engineer, mechanical engineer, boilermaker or boiler inspector, and must have passed the same kind of an examination as that prescribed for deputy and authorized inspectors in section 15107.

The commissioner may likewise hire deputy inspectors as necessary to carry out this chapter from among applicants who have successfully passed the examination provided for in section 15107.

§15107. Deputy and authorized inspectors to be examined

The examination for deputy inspectors and authorized inspectors must be given by the Chief Inspector of Boilers, or by at least 2 examiners to be appointed by the chief inspector. An examination fee for authorized inspectors must be set by the board, but may not exceed \$100. The examination must be written or partly written and partly oral, recorded in writing, and must be confined to determining the fitness and competency of the applicant for the intended service and must be of uniform grade throughout the State. The chief inspector shall certify to the board the names of applicants who have successfully passed the examination. If an applicant for an inspector's certificate of authority fails to pass this examination, the applicant may appeal to the board for a subsequent examination that must be given

by the board or by examiners other than those by whom the first examination was given. These examiners must be appointed immediately to give the subsequent examination. Based on the result of this subsequent examination, the board shall determine whether the applicant is qualified to be issued an inspector's certificate. The record of an applicant's examination, whether original or on appeal, must be accessible to the applicant and to the applicant's employer.

The fee for issuing a certificate of authority as an authorized inspector must be set by the board, but may not exceed \$50 per year when the certificate is granted under section 15120, to a person who holds a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization, and whose examination has been waived in accordance with section 15120. The certificate is valid for a 3-year period beginning with the date of issuance.

The board may file a complaint with the Administrative Court to revoke a certificate of authority pursuant to Title 4, section 1151, for incompetence or untrustworthiness of the holder of the certificate or for willful falsification of any matter or statement contained in the application or in a report of any inspection.

§15108. Chief and deputy inspectors to furnish bond

The chief inspector and each deputy inspector shall furnish such bond as may be required by law.

§15109. Stationary steam engineers and boiler operators

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

A. "Capacity" means the potential output of a steam boiler designated in pounds per hour of steam flow or its equivalent based on heating surface in the applicable chapter of the code.

B. "Committee" means the examination committee as set forth in this section.

C. "Have charge of" means the general supervisory control over the operation and maintenance of a plant and other stationary steam engineers or other personnel engaged in the operation of the plant.

D. "Operate" means to control by observation and manipulation of mechanical or automatic

and remote controls equipment in connection with a plant, but does not include persons who "have charge of" the plant.

E. "Plant" means heating plant, power plant or process plant.

F. "#/HR" means pounds of steam per hour output or equivalent.

G. "Psi" means pounds per square inch.

H. "Supervise" means to have supervisory control over the operation and maintenance of a plant, other stationary steam engineers or other personnel engaged in the operation or maintenance of a plant, but does not mean "have charge of" as defined in paragraph C.

2. Licenses. In order to safeguard life, health and property, the board shall provide for the mandatory licensing of stationary steam engineers and boiler operators.

Those persons operating boilers exempt under section 15102 and those persons employed by companies under the jurisdiction of the Public Utilities Commission or the United States Atomic Energy Commission, or its successor, are exempt from the licensing requirements.

3. Issuance of license. The board shall issue a license to an applicant in the grade for which the committee certifies to the board that the applicant has satisfactorily met the examination and other requirements of this section.

A. A license is valid for 3 years from the date of issuance. A license must designate the name of the holder, the license number, the grade of license, the issuing date and the expiration date. Any license issued under this section is automatically renewable upon payment of the renewal fee as set forth in this section. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner 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 3-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.

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 may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. The board may levy penalties for nonrenewal. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, except if that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board.

B. The license certificate must be displayed in plain view in the plant where the licensee is employed.

C. The committee shall certify to the board as eligible for a license any applicant who holds a current stationary steam engineering license issued by the proper authority of any state, territory or possession of the United States, the District of Columbia or Canada that has requirements equal to those of this State and recognizes the license issued by this State without further examination. The committee shall certify to the board as eligible for a license any applicant who holds a current Canadian marine or United States Coast Guard marine engineer's license and who has worked as a boiler engineer or operator 3 of the last 5 years prior to application. The applicant bears the burden of proving those matters necessary for a license based on reciprocity.

4. Denial or revocation of license. The board may file a complaint to revoke the registration of a stationary steam engineer's or boiler operator's license with the Administrative Court pursuant to Title 4, chapter 25, or may deny the application for the license if the board finds:

A. The licensee or applicant guilty of fraud or misrepresentation in the license application;

B. The licensee or applicant operating or being in charge of a plant while under the influence of intoxicating beverages or narcotic drugs. Revocation under this paragraph may not exceed 90 days;

C. The licensee or applicant suffers from physical or mental incapacity of such nature as would jeopardize physical property or lives in the exercise of the license;

D. There is proven against the licensee or applicant evidence of gross incompetence or gross negligence in the exercise of the license; or

E. The licensee or applicant has operated or has had charge of a plant over which the licensee or applicant lacked authority.

5. Examination committee. The examination committee must be appointed by the board and consists of 5 members, one of whom must be a member of the board, one of whom must be an authorized boiler inspector employed by an insurance carrier licensed to do business in this State, one of whom must be appointed from the public at large and who must be knowledgeable in matters dealing with plant operation, one of whom must have charge of plants and one of whom must be an operator of plants. The secretary of the committee is the chief inspector or a duly appointed designee. The members are appointed for a term of 5 years and until their successors are appointed and duly qualified.

6. Examinations. The committee shall cause all examinations required under this section to be conducted and shall certify qualifying applicants to the board for issuance of licenses.

A. Examinations given to the applicants must be based on the code and the Maine Boiler Code and standard engineering practices.

B. Examinations must be administered at least quarterly and at such times and places as the committee believes are suited to reach the maximum number of applicants.

C. Applications for licenses and renewals must be made on forms furnished by the committee and must include a sworn statement by the applicant of the applicant's qualifications as to all matters pertinent for application under this section.

7. Class of license. There must be 2 grades of boiler operator's license and 4 classes of engineering licenses as set out in this subsection.

A. The holder of a low pressure heating boiler operator's license may operate a heating plant covered by this chapter with steam boilers not exceeding 15 psi or hot water and hot water supply boilers not exceeding 160 psi or 250 degrees Fahrenheit, or both.

B. The holder of a boiler operator's license may operate, supervise or have charge of a heating plant having a capacity of not more than 20,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. The applicant for a boiler operator's license must

have 6 months' operating experience prior to examination under a permit. The board shall issue a permit for the purpose of gaining that experience. Such a permit must be limited to a specified plant and must be limited to one year.

C. The holder of a 4th-class engineer's license may have charge of a plant of not more than 50,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 4th-class engineer's license must be a high school graduate or have equivalent education and at least one year of operating or supervising experience under a duly licensed engineer having charge of a plant.

D. The holder of a 3rd-class engineer's license may have charge of a plant of not more than 100,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 3rd-class engineer's license must have at least one year operating or supervising experience as a 4th-class engineer.

E. The holder of a 2nd-class engineer's license may have charge of a plant of not more than 200,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. An applicant for a 2nd-class engineer's license must have at least 2 years operating or supervising experience as a 3rd-class engineer.

F. The holder of a first-class engineer's license may operate, supervise or have charge of a plant of unlimited steam capacity. An applicant for a first-class engineer's license must have at least 2 years operating or supervisory experience as a 2nd-class engineer.

G. One year of schooling in the field of boiler operation in a school approved by the board is equivalent to 6 months of operating experience.

H. In the event of a lack of qualified personnel in the plant in which the applicant is employed, the committee may waive the operating experience requirements of the applicant for examination for the next higher grade of license. Any such license issued must be limited to that plant.

I. Notwithstanding the provisions of this subsection, the examining committee may permit an applicant to take the examination for a license if, in the committee's opinion, the experience or educational qualifications, or both, of the applicant are equivalent to the operating experience required by this subsection.

8. Rules. The board may adopt all necessary rules and establish necessary procedures for examination and licensing to carry out this section, pursuant to the Maine Administrative Procedure Act.

9. Fees. The fees charged for examination and for licenses issued pursuant to this section are set by the board and may not exceed the following:

A. License and license renewal fee for stationary steam engineers, \$100;

B. License and license renewal fee for boiler operators, \$100;

C. A late fee not to exceed \$75 on all renewals for which the board receives a renewal application up to 2 years after the expiration of the license; and

D. Examination fee for engineers and operators, \$50.

10. Committee expenses. Committee members are entitled only to reimbursement for all expenses incurred in the performance of their duties under this section.

§15110. Welding on boilers; certificates for welders

A welder may not make welded repairs to any boiler or pressure vessel covered by this chapter, without first receiving authorization from the chief inspector or the authorized inspector employed by the insurance company responsible for the inspection of the boiler or pressure vessel. The authorization may be in the form of a general agreement between the chief inspector or the appropriate authorized inspector and the owner or the owner's representative.

The board may adopt rules, pursuant the Maine Administrative Procedure Act, relating to qualifications of welders performing welding for compensation and may conduct examinations, issue certificates and charge a reasonable fee for those examinations and certificates.

§15111. Operation of condemned vessels

A boiler or pressure vessel that has been condemned for further use in this or any other state by an authorized boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the Federal Government may not be installed or operated in this State.

§15112. Condemned vessels stamped

A boiler or pressure vessel condemned in this State must be stamped "XXX Me." and the board must immediately be notified of the condemnation.

The stamp "XXX Me." placed on condemned boilers must be made across the registration mark or number of the boiler, or if the boiler has no registration mark or number, a stamp must be placed in the location of this mark as determined by the rules of the code.

The stamping must be done with individual letters, driven into the plate so far as to thoroughly cancel any previous registration and must be made with letters at least 3/8 of an inch high.

The laws and regulations of the code must be used in all mathematical computations necessary to determine the safety of a boiler.

§15113. Registration; stamping

A boiler, except one exempt under section 15102, may not be operated in this State unless the boiler is registered in the office of the board upon blanks to be furnished by the board upon request. The completed blanks must contain information regarding maker's name, type of construction, date of construction, age, location and when last inspected and other information as may be required.

A pressure vessel, except those exempt under section 15102, may not be installed and operated in this State after June 30, 1974, unless it is constructed, inspected and stamped in conformity with Section VIII of the code and is registered with and approved by the board.

A pressure vessel that does not bear the code stamping may be registered with and approved by the board, if the person desiring to install the vessel makes application to the board and files a copy of the manufacturer's data report or a copy of the construction details together with material specifications for review and approval prior to installation.

After a boiler or pressure vessel has been registered with the board, the board shall furnish and the owner or user shall stamp or have stamped a number as given, on the shell of the boiler in the space commonly used for such purposes, with letters and figures not less than 3/8 of an inch high.

If a boiler or pressure vessel subject to this section is moved from one location to another, notice must be given the board of the removal and of the new location in which the boiler or pressure vessel is to be set up.

§15114. Certificate required

It is unlawful for any person, firm, partnership or corporation to operate under pressure in this State a boiler to which this chapter applies without a valid inspection certificate as provided in this chapter. The

operation of a boiler without an inspection certificate constitutes a Class E crime on the part of the owner or user of the boiler and is punishable by a fine of not more than \$100 or by imprisonment for not more than 30 days, or by both.

§15115. Temporary certificate

If an emergency affecting public safety and welfare exists, the board may authorize the chief inspector to issue a temporary inspection certificate for a period not exceeding 6 months after an inspection certificate has expired. A temporary inspection certificate may be issued without an internal inspection being made. If the boiler is insured, the temporary inspection certificate may not be issued until recommended in writing by the authorized inspector of the company insuring the boiler and by the chief inspector or one of the deputies; or, if the boiler is not insured, the temporary inspection certificate must be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate apply to the temporary inspection certificate.

§15116. Insurance

When a boiler is insured and inspected by a duly accredited insurance company licensed to do business in this State, a copy of the record of each internal inspection of the boiler must be filed with the board.

When an insurance company cancels insurance upon any boiler requiring inspection under section 15117 that is not exempt under section 15102 or the policy expires and is not renewed, notice must immediately be given to the board. An insurance company shall notify the board immediately upon insuring a boiler pursuant to this section.

§15117. Inspection required; certificates issued

Each boiler used or proposed for use within this State, except boilers exempt under section 15102, must be thoroughly inspected by the chief inspector or one of the deputy inspectors or authorized inspectors, as to its design, construction, installation, condition and operation. The board shall adopt rules pursuant to the Maine Administrative Procedure Act specifying the method and frequency of inspection. When any boiler inspected as specified by the board is found to be suitable and to conform to the rules of the board, the chief inspector shall issue to the owner or user of that boiler, upon payment of a fee to the board, an inspection certificate for each boiler. The fee must be set by the board and may not exceed \$100. Inspection certificates must specify the maximum pressure that the boiler inspected is allowed to carry. The inspection certificate may be valid for not more than 14 months from its date and must be posted under glass in the engine or boiler room containing the boiler or an

engine operated by it or, in the case of a portable boiler, in the office of the plant where it is temporarily located.

In accordance with the provisions of the Maine Administrative Procedure Act, the chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in the inspector's opinion, the boiler for which it was issued may not continue to be operated without menace to the public safety. An authorized inspector has corresponding powers with respect to inspection certificates for boilers insured by the company employing the inspector. This suspension must continue pending decision on the board's application with the Administrative Court for a temporary suspension pursuant to Title 4, section 1153.

§15118. Inspection charge

The owner or user of each boiler required by this chapter to be inspected by the chief inspector or a deputy inspector, shall pay the inspector upon inspection a fee or fees to be determined by the board. Not more than \$500 may be collected for the inspection of any one boiler made in any one year, unless additional inspections are required by the owners or users of the boiler or unless the boiler has been inspected and an inspection certificate has been refused, withheld or withdrawn or unless an additional inspection is required because of the change of location of a stationary boiler. The nature and size of miniature boilers to be inspected may be determined by the board.

The fees for additional inspections required by the code must be paid by the boiler owner or contractor and those fees must include the wages and expenses of the inspector.

§15119. Powers of chief inspector

The chief inspector may:

1. Free access to premises. Have free access for the chief inspector or a deputy or deputies inspectors during reasonable hours to any premises in the State where a boiler is built or where a boiler or power plant apparatus is being installed or operated, for the purpose of ascertaining whether the boiler is built, installed and operated in accordance with this chapter;

2. Inspection certificates. Issue, suspend and revoke inspection certificates allowing boilers to be operated, as provided in sections 15115 and 15117, and as provided in the Maine Administrative Procedure Act;

3. Enforce laws and rules. Enforce the laws of the State governing the use of boilers and enforce the rules of the board; and

4. Examinations and certificates of competency. Hold examinations and issue certificates of competency to inspectors who have successfully passed such examinations.

§15120. Authorized inspectors; duties

In addition to any deputy or authorized boiler inspectors certified and appointed under sections 15106 and 15107, the board shall, upon the request of any company authorized to insure against loss from explosion of boilers in this State, issue to the boiler inspectors of the company certificates of authority as authorized inspectors. Each inspector before receiving a certificate of authority must pass satisfactorily the examination provided for in section 15107 or, in lieu of such an examination, hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization. Authorized inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of an authorized inspector's certificate is conditioned upon the authorized inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. Authorized inspectors shall inspect all boilers insured by their respective companies, and the owners or users of those insured boilers are exempt from the payment of the fees provided for in section 15118. Each company employing authorized inspectors shall, within 30 days following each annual internal inspection made by the inspectors, file a report of the inspection with the chief inspector.

CHAPTER 133

ELEVATOR AND TRAMWAY INSTALLERS AND OPERATORS

§15201. Declaration of policy

It is the policy of the State to protect its citizens and visitors from unnecessary mechanical hazards in the operation of elevators and tramways and to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided and that periodic maintenance, inspections and adjustments considered essential for the safe operation of elevators and tramways are made. The primary responsibility for design, construction, maintenance and inspection rests with the firm, person, partnership, association or corporation that owns or operates elevators or tramways.

§15202. Definitions

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

1. Approved. "Approved" means as approved by the Board of Elevator and Tramway Safety.

2. Board. "Board" means the Board of Elevator and Tramway Safety.

3. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

4. Department. "Department" means the Department of Professional and Financial Regulation.

5. Elevator. "Elevator" includes an escalator or a manlift and means a guided hoisting and lowering mechanism equipped with a car, platform or load-carrying unit, including doors, well, enclosures, means and appurtenances. "Elevator" does not include a dumbwaiter, conveyor, chain or bucket hoist or a tiering, piling or feeding device.

6. Escalator. "Escalator" means a power-driven, inclined and continuous stairway used for raising or lowering passengers.

7. Freight elevator. "Freight elevator" means an elevator used for carrying freight on which only the operator and the persons necessary for loading and unloading are permitted to ride.

8. Licensed tramway inspector. "Licensed tramway inspector" means an individual who has been licensed by the Board of Elevator and Tramway Safety to inspect tramways pursuant to this chapter.

9. Manlift. "Manlift" means a device, consisting of a power-driven, endless belt or chains, provided with steps or platforms and handholds attached to it for the transportation of personnel from floor to floor.

10. Operator. "Operator" means the person or persons who physically operate an elevator or tramway.

11. Owner. "Owner" means a firm, person, partnership, association, corporation or state or political subdivision that owns an elevator or tramway.

12. Passenger elevator. "Passenger elevator" means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading, except that "passenger elevator" does not mean an escalator or a manlift.

13. Physically handicapped person.

"Physically handicapped person" means a person who has a physiological disability, infirmity, malformation, disfigurement or condition that eliminates or severely limits the person's ability to have access to the person's environment by normal ambulatory function, necessitating the use of crutches, a wheelchair or other similar device for locomotion.

14. Skier. "Skier" means any person while wearing skis and any person while actually on a ski slope or trail located at a ski area for the purpose of skiing, including a person engaged in cross-country, nordic or telemark skiing.

15. Ski area. "Ski area" means the ski slopes and trails and passenger tramways administered or operated as a single enterprise within this State.

16. Ski industry. "Ski industry" means the activities of all ski area operators.

17. Ski area operator. "Ski area operator" means a person or organization having operational responsibility for a ski area, including an agency or a political subdivision of this State.

18. State inspector. "State inspector" means an individual in the employ of the State whose duties include the examination and inspection of elevators and tramways under the direction of the commissioner.

19. Tramway. "Tramway" means a device used to transport passengers uphill on skis or in cars on tracks or suspended in the air by the use of steel cables, chains or belts or by ropes usually supported by trestles or towers with one or more spans. "Tramway" includes the following:

A. Reversible aerial tramways, which are that class of aerial passenger tramways and lifts by which passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals. This class includes:

(1) Single-reversible tramways, which are a type of reversible lift or aerial tramway having a single carrier, or single group of carriers, that moves back and forth between terminals on a single path of travel, sometimes called "to-and-fro" aerial tramways; and

(2) Double-reversible tramways, which are a type of reversible lift or aerial tramway having 2 carriers, or 2 groups of carriers, that oscillate back and forth between terminals on 2 separate paths of travel, sometimes called "jig-back" aerial tramways;

B. Aerial lifts and skimobiles, which are that class of aerial passenger tramways and lifts by which passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make U-turns in the terminals and move along parallel and opposing paths of travel. The carriers may be open or enclosed cabins, chairs, cars or platforms. The carriers may be fixed or detachable. This class includes:

(1) Gondola lifts, which are a type of lift or aerial tramway by which passengers are transported in open or enclosed cabins. The passengers embark and disembark while the carriers are stationary or moving slowly under a controlled arrangement;

(2) Chair lifts, which are a type of lift or aerial tramway by which passengers are transported in chairs, either open or partially enclosed; and

(3) Skimobiles, which are a type of lift or aerial tramway by which passengers are transported in open or enclosed cars that ride on a rigid structural system and are propelled by a wire rope or chain;

C. Surface lifts, which are that class of conveyance by which passengers are propelled by means of a circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a "towing outfit." This class includes:

(1) T-bar lifts, which are a type of lift in which the device between the haul rope and passengers forms the shape of an inverted "T," propelling passengers located on both sides of the stem of the "T";

(2) J-bar lifts, which are a type of lift in which the device between the haul rope and passenger is in the general form of a "J," propelling a single passenger located on the one side of the stem of the "J"; and

(3) Platter lifts, which are a type of lift in which the device between the haul rope and passenger is a single stem with a platter or disk, attached to the lower end of the stem, propelling the passenger astride the stem of the platter or disk;

D. Tows, which are that class of conveyance in which passengers grasp a circulating haul rope, which may be natural or synthetic fiber or metallic, or a handle or gripping device attached to the circulating haul rope, and are propelled by the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward-traveling haul rope remains adjacent to the uphill track at an elevation that permits the passengers to maintain their grasp on the haul rope, handle or gripping device throughout the portion of the tow length that is designed to be traveled; and

E. Similar equipment not specified in this subsection, but conforming to at least one of the general descriptions in this subsection.

20. Tramway passenger. "Tramway passenger" means a person being transported or conveyed by a tramway, waiting in the immediate vicinity for transportation or conveyance by a tramway, moving away from the disembarkation or unloading point of a tramway to clear the way for the following passengers or boarding, embarking upon or disembarking from a tramway.

§15203. Retroactive effect; exception

This chapter may not be construed to prevent the use or sale of elevators in this State that were being used or installed prior to January 1, 1950 and that must be made to conform to the rules of the board covering existing installations and must be inspected as provided for in this chapter.

This chapter does not apply to elevators or tramways on reservations of the Federal Government, to elevators used for agricultural purposes on farms or to elevators located or maintained in private residences, as long as they are exclusively for private use.

§15204. Appeals; variances

A person aggrieved by an order or act of the supervising inspector or the state inspector under this chapter may, within 15 days after notice of the order or act, appeal from the order or act to the board, which shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. After the hearing, the board shall issue an appropriate order either approving or disapproving the order or act.

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of elevators or tramways may file a petition for a variance with the board, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance must be set by the board and may not exceed \$100.

The board shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. The board shall grant a variance if, owing to conditions especially affecting the particular building or installation involved, the enforcement of any law, code or rule relating to elevators or tramways would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or any occupant of the petitioner's building or would be unreasonable under the circumstances or condition of the property, provided that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of that law, code or rule. In exercising its powers under this section, the board may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with rules made and amended from time to time. The board immediately shall send a copy of its decision by registered mail to all interested parties.

§15205. Board of Elevator and Tramway Safety

The Board of Elevator and Tramway Safety, as established by Title 5, section 12004-A, subsection 14, consists of 9 members, of whom 7 are appointed by the Governor. Each member holds office until a successor is duly appointed. At the expiration of each member's term, that member's successor is appointed by the Governor from the same classification in accordance with this section. If a vacancy occurs, the Governor shall appoint a member of the proper classification to serve the term of the absent member. Of the 7 members of the board appointed by the Governor, one must represent owners or lessees of elevators in the State; one must represent manufacturers of elevators; one must represent manufacturers or installers of accessibility lifts; one must be a licensed elevator mechanic; one must be a representative of a ski area operator presently operating tramways in the State; one must be a qualified licensed professional engineer who is familiar with tramway design, inspection and operation; and one must be a public member. The 8th member of the board must be a physically handicapped person appointed by the Director of the Bureau of Rehabilitation Services, subject to the approval of the Governor. The 9th member of the board must be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety. The board must annually elect a chair from its membership. Appointments are for 3-year terms. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.

1. Compensation. The appointed members of the board shall serve without salary and are entitled to compensation according to the provisions of Title 5, chapter 379.

2. Meetings. The board shall meet at least twice yearly.

§15206. Powers and duties of board

The board shall adopt 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 must be adopted pursuant to the Maine Administrative Procedure Act and conform as near as practicable to the established standards as approved by the American National Standards Institute. The rules may not take effect sooner than 90 days after the date they are adopted, except that rules applying to the construction of new elevators and tramways may not take effect sooner than 6 months after the date they are adopted.

The board shall keep a record of the date of last inspection and the type, dimensions, age, conditions and location of all elevators to which this chapter applies.

The board shall publish and distribute among elevator and tramway owners, lessees, manufacturers, repair companies and others requesting them copies of the rules as adopted by the board, at a cost sufficient only to cover the printing and mailing expenses of distribution, except those rules that are American National Standards Institute standards, which must be obtained from the publisher.

§15207. Appointment of state inspectors

The commissioner may hire employees in conformance with section 60-F.

§15208. Examination of elevator inspectors; licenses

The board shall set standards necessary for the examination of elevator inspectors. The board may set standards for the examination of inspectors limited to the inspection of categories of equipment within the definition of "elevator," including, but not limited to, accessibility lifts. The examination fee is set by the board and may not exceed \$100. 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 standard throughout the State. If an applicant fails to pass this examination, the applicant may appeal to the board for a 2nd examination within 90 days of notification of the applicant's failure to pass, and the 2nd examination 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 the applicant is qualified.

The record of the applicant's examination, whether original or on appeal, must be accessible to 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 board.

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 the licensee has worked as an elevator inspector during the initial 3-year period.

§15209. Examination of tramway inspectors; licenses

The board shall license an applicant as a tramway inspector, who may perform the inspections required on tramways, if that applicant:

1. Registration. Is a professional engineer with a current valid registration in some state. If an applicant for a tramway inspector's license demonstrates to the board that the applicant possesses more than 6 years' experience in the construction, design, inspection and operation of tramways, this registration requirement may be waived by the board;

2. Experience. Has considerable experience in the construction, design or maintenance of tramways;

3. Experience in inspecting. Has 4 years' experience inspecting tramways while working for an insurance company, a government agency or a company performing tramway or similar equipment inspections;

4. Capability and aptitude. Has the physical capability and aptitude to perform the duties of a tramway inspector in a safe and thorough manner; and

5. Examination. Has sufficient experience and knowledge to achieve a satisfactory rating in an examination designed to test the applicant's knowledge of orders and principles of tramway safety. When an applicant for a tramway inspector's license demonstrates more than 6 years' experience in the construction, design, inspection and operation of tramways, the provisions for examination must be waived.

A. The examination for a licensed tramway inspector must be given by the supervising inspec-

tor or by 2 or more examiners appointed by the supervising inspector. The examination must be written, in whole or in part, 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 standard throughout the State. If an applicant fails to pass this examination, the applicant may appeal to the board for a 2nd examination within 90 days of notification of the applicant's failure to pass, and the 2nd examination 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 the applicant is qualified.

B. The record of the applicant's examination, whether original or on appeal, must be accessible to 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.

C. A tramway 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 \$150.

D. Applications for examination and license must be on forms furnished by the board. The examination fee for a tramway inspector's license must be set by the board and may not exceed \$100.

§15210. Revocation of tramway or elevator inspector's license

The board may revoke a tramway or elevator inspection license or remove inspection endorsements from an elevator mechanic's license 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 determined by the board to be contrary to the best interests of tramway or elevator safety or the board; or

2. Physical infirmities. For physical infirmities that develop to a point at which it appears that an inspector or mechanic is no longer able to perform the required duties in a thorough and safe manner.

§15211. Notice of accidents

Each elevator or tramway accident caused by equipment failure, resulting in injury to a person or in substantial damage to equipment, must be reported by the owner or lessee to the supervising inspector in accordance with the board's rules. When an elevator accident occurs, the inspection certificate for the

involved elevator must be summarily revoked in accordance with Title 5, section 10004, pending decision on any application with the Administrative Court for a further suspension.

§15212. Examination of accidents

The board may examine or cause to be examined the cause, circumstances and origin of all elevator or tramway accidents within the State. Upon request, the board shall furnish to the proper district attorney the names of witnesses and all information obtained.

§15213. Elevator mechanics; license; definition

A person may not service, repair, alter or install any elevator unless that person is licensed as an elevator mechanic under sections 15214 and 15216. Elevator work in industrial plants, manufacturing plants and hospitals may be performed by plant personnel who are not licensed under sections 15214 and 15216 if the work is supervised by the plant engineer and performed in compliance with rules adopted by the board.

The word "elevator," as used in this section and sections 15214 and 15216, includes all electrical equipment, wiring, steelwork and piping in the elevator machine room, hoistway and pit pertaining to the operation and control of an elevator, except power feeders and required power equipment up to the control panel, heating, lighting, ventilation and drainage equipment.

§15214. Issuance; qualifications

The board shall issue an elevator mechanic's license to any applicant who has at least 2 years' experience in the service, repair, alteration or installation of elevators while employed by an elevator company, or has equivalent experience as defined by rules of the board, and satisfactorily passes the examination provided for in section 15216.

A licensed elevator mechanic may not have more than 2 helpers under direct supervision. These helpers need not be licensed.

A licensed elevator mechanic shall comply with the elevator rules of this State.

§15215. Inspector endorsement to elevator mechanic's license

An elevator mechanic may inspect elevators if the mechanic has an inspection endorsement to the mechanic's license. The board shall establish rules to examine and qualify mechanics to conduct elevator inspections. The board shall set an examination for endorsement fee and endorsement and endorsement renewal fees, which may not exceed 1/3 of the elevator inspector's license and renewal fees.

§15216. Examination of elevator mechanics; applications; licenses; fees

The examination fee for an elevator mechanic's license must be set by the board and may not exceed \$100. The examination must be written, in whole or in part, and must be confined to questions the answers to which will determine the fitness and competency of the applicant for the intended service.

If an applicant for a mechanic's license fails to pass the examination, the applicant may request a 2nd examination within 90 days of notification of the applicant's failure to pass and the 2nd examination must be given without further fee. Any additional examinations may be given only upon the payment of the examination fee as provided in this section.

The record and examination papers of the applicant must be accessible to the applicant and the applicant's employer and 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 board.

An elevator mechanic's license expires on the 3rd anniversary date of the original issue and may be renewed for periods of 3 years without further examination, if a renewal fee in an amount set by the board, not to exceed \$100, is paid and the licensee has worked as an elevator mechanic during the initial 3-year period.

§15217. 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, 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 or falls resulting from such man-made objects; variations in steepness or terrain, whether natural or as a result of

slope design; snowmaking 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 snowboarding or downhill, telemark or cross-country skiing; for sliding downhill on snow or ice on skis or a toboggan, sled, tube, snowboard or any other device; or for similar uses of the ski slopes and trails.

C. "Skier" means any person at a ski area who participates in any of the activities 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; 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 modi-

fications; 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.

§15218. Duties of skiers and tramway passengers; acts prohibited

A person engaged in skiing or riding on a tramway may not:

1. Embark or disembark from tramway except as designated. Embark or disembark from any tramway, except at a designated area;

2. Throw or expel objects from tramway. While riding on any tramway or similar device, throw or expel any object or do any act or thing that interferes with the running of that tramway;

3. Engage in harmful conduct. While riding on any tramway, willfully engage in any type of conduct that will contribute to or cause injury to any person, or to the tramway, or willfully place any object in the uphill ski track that will cause injury to any person or cause damage to or derailment of the tramway;

4. Closed trails. Ski or otherwise use a slope or trail that has been designated "closed" by the operator without written permission of the operator or the operator's designee;

5. Removal or destruction of signs. Remove, alter, deface or destroy any sign or notice placed in the ski area or on the trail by the operator; or

6. Out-of-bounds areas. Ski or otherwise use any portion of the ski area that is not a part of a regular network of trails or areas open to the public, including wooded areas between trails, undeveloped areas and all other portions not open to the public, if the operator has properly posted these areas as being closed to public access.

§15219. Hang gliding

Hang gliding is also recognized as a hazardous sport. Therefore, a person who is hang gliding is deemed to have assumed the risk and legal responsibility for any injury to the hang glider's person or property in the same manner and to the same extent as skiers under this chapter.

§15220. Penalties

1. Verbal warning; forfeiture of lift ticket. Any owner, manager or employee of any ski area, who finds a person in violation of section 15218, may first issue a verbal warning to that individual or suspend the individual's lift use privileges. Any person who fails to heed the warning issued by the ski area owner, manager or employee shall forfeit the ski lift ticket and ski lift use privileges and must be refused issuance of another lift ticket and is liable for any damages to the tramway and its incidental equipment that have been caused by the individual's misconduct.

2. Cost of rescue operation. When it is necessary to commence a rescue operation as a result of a violation of section 15218, subsection 6, any

person who has committed the violation is liable for the cost of that rescue operation.

§15221. Inspection of elevators and tramways

1. Fees; inspection certificate. Each elevator or tramway proposed to be used within this State must be thoroughly inspected by either the supervising inspector, a state inspector or a licensed elevator or tramway 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 must be set by the board pursuant to section 15225 and must be paid by the owner or user of the elevator or tramway. The certificate must specify the maximum load to which the elevator or tramway may be subjected, the date of its issuance and the date of its expiration. The elevator certificate must be posted in the elevator and the tramway certificate at a conspicuous place in the machine area.

2. Scheduled inspections. A state inspector or licensed elevator inspector shall inspect every elevator 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 tramway inspector shall inspect every tramway twice each year. One tramway inspection must be made when weather conditions permit a complete inspection of all stationary and moving parts. The 2nd tramway inspection must be made while the tramway is in operation.

3. Temporary suspension of inspection certificate; condemnation card. When, in the inspector's opinion, the elevator or tramway can not continue to be operated without menace to the public safety, the supervising inspector or state inspector may 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 elevator or tramway. The condemnation card is a warning to the public and must be of such type and dimensions as the board determines. The suspension 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.

4. Special certificate; special conditions. When, upon inspection, an elevator or tramway is found by the inspector 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 the inspector's findings and the supervising inspector may issue a special certificate, to be posted as required in this section. This certificate must set

forth any special conditions under which the elevator or tramway may be operated.

5. Inspection reports. 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.

6. Follow-up inspections. All follow-up inspections necessary to enforce compliance must be performed by either the supervising inspector or a state inspector. A fee as set forth in section 15225 must be charged for those follow-up inspections.

§15222. Condemned elevators and tramways not to be operated

An elevator or tramway that has been condemned under section 15221 may not be operated in this State. Any person who owns or operates or causes to be operated for other than repair or corrective purposes an elevator or tramway in violation of this section commits a Class E crime and must be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

§15223. Certificate required

The owner, lessee or agent of an elevator or tramway who operates that elevator or tramway without an inspection certificate displayed commits a Class E crime and, notwithstanding Title 17-A, sections 1252 and 1301, must be punished by a fine of not more than \$50 for each day of illegal operation.

§15224. Installation of new elevators and tramways; fees

Detailed plans or specifications of each new or altered elevator or tramway must be submitted to and approved by the supervising inspector before the construction may be started. Fees for examination of the plans or specifications must be \$5 per \$1,000 of the valuation of the elevator or tramway as covered by the blueprints. The minimum fee may not be less than \$35 and the maximum fee may not be more than \$100.

§15225. Inspection fees

1. Initial inspection of elevators; fee. The initial inspection of elevators may be made by the supervising inspector or a state inspector and the fee for the initial inspection of each new or altered elevator must be set by the board, not to exceed \$100, plus expenses.

2. Initial inspection of tramways; fee. The initial inspection of tramways may be made by the supervising inspector, a state inspector or a licensed tramway inspector and the fee for the initial inspection

of each new or altered tramway must be set by the board, not to exceed \$100, plus expenses.

3. Subsequent inspection of elevators; fee. The fee for each required inspection of elevators may be set by the board, not to exceed \$100, plus \$10 for each landing.

4. Annual inspection of tramways; fee. The annual fee for the required inspections of tramways must be set by the board.

5. Certificate fee. The certificate fee must be set by the board, not to exceed \$100.

When a tramway or elevator inspection has been made by a licensed tramway or elevator inspector, the inspector shall submit the inspection fee to the board along with an inspection report.

§15226. Reports by inspectors

A state inspector or licensed inspector 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 the rules. When any serious infraction of the rules is found by a state inspector or licensed inspector and that infraction is, in the opinion of the inspector, dangerous to life, limb or property, the inspector shall report that infraction immediately to the supervising inspector.

§15227. Powers of the supervising inspector

The board is authorized to investigate all elevator and tramway accidents that result in injury to a person or in damage to the installation.

The supervising inspector is authorized:

1. Enforce laws and rules. To enforce the laws of the State governing the use of elevators and tramways and to enforce adopted rules of the board;

2. Free access to premises or location. To provide free access for state inspectors, including the supervising inspector, at all reasonable times to any premises in the State where an elevator or tramway is installed or is under construction for the purpose of ascertaining whether that elevator or tramway is installed, operated, repaired or constructed in accordance with this chapter;

3. Supervise inspectors. To allocate and supervise the work of state inspectors;

4. Certificates. To issue and temporarily suspend certificates allowing elevators and tramways to be operated pursuant to Title 5, chapter 375; and

5. Examinations. To hold examinations and establish the fitness of applicants to become elevator or tramway inspectors or elevator mechanics, and to issue certificates or licenses to those persons who have successfully passed required examinations and been approved by the board as licensed elevator or tramway inspectors or elevator mechanics.

Sec. H-15. Transition provisions.

1. All liabilities and assets of the Board of Boiler Rules and the Board of Elevator and Tramway Safety must be transferred with the boards to the Department of Professional and Financial Regulation.

2. All existing rules and procedures in effect on the effective date of this Part, in operation or adopted by the Board of Boiler Rules and the Board of Elevator and Tramway Safety remain in effect until amended or rescinded by state law.

3. Members of the Board of Boiler Rules and the Board of Elevator and Tramway Safety who have been appointed to terms beyond the effective date of this Part shall continue to serve for their appointed terms.

4. All incumbents in positions transferred from the Department of Labor to the Department of Professional and Financial Regulation under this Act shall retain those positions and any accrued benefits they have earned.

5. Any valid license or certification issued under the Maine Revised Statutes, Title 26, chapter 5, subchapters II and V-A on or before the effective date of this Act remains valid and is renewable upon satisfaction of all requirements established by the boards.

Sec. H-16. Transitional rules. Notwithstanding the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A; Title 26, sections 173 and 476; and Title 32, sections 15105 and 15206, any rules concerning the licensing or examination of elevator inspectors, boiler inspectors, tramway inspectors or elevator mechanics seeking endorsement as elevator inspectors adopted within one year of the effective date of this Part take effect 5 days after filing with the Secretary of State under Title 5, section 8056, subsection 1, paragraph B.

Sec. H-17. Effective date. Sections 1 to 15 of this Part take effect October 1, 1996.

PART I

Sec. I-1. 4 MRSA §17, sub-§7, as amended by PL 1993, c. 675, Pt. C, §§5 and 6, is further amended to read:

7. Act as supervisor of fiscal unit. Act as supervisor of the fiscal ~~office~~ unit of the ~~courts~~ Administrative Office of the Courts and in so doing ensure that the fiscal unit:

A. ~~Maintain~~ Maintains fiscal controls and accounts of funds appropriated for the Judicial Department;

B. ~~Prepare~~ Prepares all requisitions for the payment of state ~~moneys~~ money appropriated for the maintenance and operation of the Judicial Department;

C. ~~Prepare~~ Prepares budget estimates and submissions of state appropriations necessary for the maintenance and operation of the Judicial Department and ~~make~~ makes appropriate recommendations;

D. ~~Collect~~ Collects statistical and other data and ~~make~~ makes reports to the Chief Justice, to the Chief Justice of the Superior Court and to the Chief Judge of the District Court relating to the expenditures of public money for the maintenance and operation of the Judicial Department; and

E. ~~Develop~~ Develops and implements a uniform set of accounting and budgetary accounts, based on generally accepted fiscal and accounting procedures, for the Supreme Judicial Court, for the Superior Court and for the District Court ~~and serve as auditor of the Judicial Department;~~

Sec. I-2. 4 MRSA §18, as amended by PL 1995, c. 123, §§1 and 2, is repealed.

Sec. I-3. 4 MRSA §18-B is enacted to read:

§18-B. Court Alternative Dispute Resolution Service

1. Court Alternative Dispute Resolution Service. There is established within the Administrative Office of the Courts a Court Alternative Dispute Resolution Service to provide alternative dispute resolution, referred to in this section as "ADR," services in the courts throughout the State.

2. ADR providers. The Judicial Department, through the State Court Administrator or the administrator's designee, shall contract for the services of qualified persons or organizations to serve as providers of ADR services to parties. The ADR providers are not employees of the State for any purpose. The ADR providers are entitled to be paid a reasonable per diem fee plus reimbursement of their actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the Administrative Office of the Courts.

3. Immunity from civil liability. A person serving as an ADR provider under contract with the Judicial Department or as the Director of the Court Alternative Dispute Resolution Service is immune from any civil liability, as are employees of governmental entities, under the Maine Tort Claims Act, for acts performed within the scope of the provider's or the director's duties.

4. Staff. With the advice and approval of the Court Alternative Dispute Resolution Service Committee, the State Court Administrator shall employ or contract with a person to serve as the Director of the Court Alternative Dispute Resolution Service. The State Court Administrator shall provide other necessary staff and clerical assistance to the Court Alternative Dispute Resolution Service, within the limits of funds available.

5. Facilities. The State Court Administrator shall provide a principal office for the Court Alternative Dispute Resolution Service and shall arrange for facilities throughout the State as necessary and adequate for the conduct of ADR sessions, within the limits of funds available.

6. Court Alternative Dispute Resolution Service Committee. The Court Alternative Dispute Resolution Service Committee, or "committee," is established to set policy for and monitor the Court Alternative Dispute Resolution Service. The committee consists of:

- A. The Chief Justice of the Supreme Judicial Court or a designee;
- B. The Chief Justice of the Superior Court or a designee;
- C. The Chief Judge of the District Court or a designee;
- D. The State Court Administrator or a designee;
- E. A Justice of the Superior Court, who is appointed by and serves at the pleasure of the Chief Justice of the Supreme Judicial Court;
- F. A Judge of the District Court, who is appointed by and serves at the pleasure of the Chief Justice of the Supreme Judicial Court; and
- G. Any additional members appointed by the Chief Justice of the Supreme Judicial Court that the Chief Justice considers necessary to the committee's operation.

7. Fees. When a court refers parties to the Court Alternative Dispute Resolution Service, the court shall assess the parties a fee to be apportioned equally among the parties, unless the court otherwise directs.

The fee must be deposited in the dedicated account created in subsection 8.

A party may file an in forma pauperis application for waiver of fee. If the court finds that the party does not have sufficient funds to pay the fee, it shall order the fee waived.

8. Court Alternative Dispute Resolution Service Fund. The Court Alternative Dispute Resolution Service Fund is established as a nonlapsing, dedicated fund within the Administrative Office of the Courts. Fees collected for ADR services provided pursuant to this section must be deposited in the fund.

Except as otherwise provided in this section, the Administrative Office of the Courts shall use 80% of the resources in the funds from nondesignated cases to cover the costs of providing ADR services as required under this section and shall remit 20% of the resources in the fund to General Fund unappropriated surplus. All funds from cases handled by the Court Alternative Dispute Resolution Service pursuant to Title 38, section 347-A, subsection 4, paragraph E must be used for the costs of providing ADR services as required under this section.

9. Rules. The Supreme Judicial Court shall adopt rules to govern the referral of cases to the Court Alternative Dispute Resolution Service.

Sec. I-4. 4 MRSA §107 is amended to read:

§107. Clerk

~~The clerk of the judicial courts in any county shall act~~ For each county, the Chief Justice shall appoint a person to serve as the clerk of the Superior Court in ~~such~~ that county. A clerk of a District Court may also serve as the clerk of a Superior Court. Any deputy clerk, if ~~his~~ the deputy's appointment has been temporarily approved by a ~~resident~~ Justice of ~~said~~ the Superior Court ~~then sitting in that county~~ or ~~permanently approved~~ by the Chief Justice of the ~~Supreme Judicial~~ Superior Court, may, whenever directed by the clerk, act as clerk of the Superior Court at any ~~or~~ ~~either~~ session ~~thereof~~ in that county.

Sec. I-5. 4 MRSA §153, first ¶, as amended by PL 1989, c. 891, Pt. A, §2, is further amended to read:

The State is divided into ~~30~~ 29 judicial divisions, named and defined as follows, and with places for holding court in those divisions as follows:

Sec. I-6. 4 MRSA §153, sub-§1, as amended by PL 1979, c. 127, §12, is repealed.

Sec. I-7. 4 MRSA §153, sub-§2, as amended by PL 1971, c. 622, §4-A, is further amended to read:

2. Southern Androscoggin. Southern Androscoggin consists of all municipalities in Androscoggin County not included within the division of Franklin and Northern Androscoggin. The District Court for Southern Androscoggin ~~shall~~ must be held at Lewiston or Auburn, exact site to be determined by the Chief Judge.

Sec. I-8. 4 MRSA §153, sub-§3, as amended by PL 1995, c. 330, §1, is further amended to read:

3. Western Aroostook. Western Aroostook consists of the municipalities and unorganized territory known as Hamlin Plt., Cyr Plt., Grand Isle, 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. ~~The Chief Judge shall determine the level of service at each location.~~

Sec. I-9. 4 MRSA §153, sub-§4 is amended to read:

4. Eastern Aroostook. Eastern Aroostook includes the municipalities and unorganized territory known as Limestone, Caribou, Caswell, Connor Township, Cyr Plantation, Hamlin, Washburn, Wade, T13 R5, Van Buren and all municipalities and unorganized territory in Aroostook County lying to the north of these up to the boundary of the division of Western Aroostook. The District Court for Eastern Aroostook ~~shall~~ must be held at Caribou.

Sec. I-10. 4 MRSA §153, sub-§10, as amended by PL 1973, c. 35, is further amended to read:

10. Franklin and Northern Androscoggin. Franklin and Northern Androscoggin consists of the entire County of Franklin and the municipalities of Leeds, Livermore, Livermore Falls and Turner in the County of Androscoggin. The District Court ~~of~~ for Franklin ~~shall~~ and Northern Androscoggin must be held at Farmington.

Sec. I-11. 4 MRSA §154, sub-§1, as amended by PL 1965, c. 228, §2, is further amended to read:

1. First District. The first district consists of the divisions of Eastern Aroostook (Caribou) and Western Aroostook (~~Madawaska, Fort Kent and Van Buren~~).

Sec. I-12. 4 MRSA §154, sub-§11, as amended by PL 1965, c. 425, §3, is further amended to read:

11. Eleventh District. The 11th district consists of the divisions of ~~Northern Androscoggin (Livermore Falls)~~, Northern Oxford (Rumford) and Southern Oxford (South Paris).

Sec. I-13. 4 MRSA §154, sub-§12, as amended by PL 1965, c. 237, §4, is further amended to read:

12. Twelfth District. The 12th district consists of the divisions of Somerset (Skowhegan) ~~and~~, Franklin (Farmington) and Northern Androscoggin.

Sec. I-14. 4 MRSA §159, as amended by PL 1991, c. 549, §1 and affected by §17, is further amended to read:

§159. Clerks; appointment

For each division, for the violations bureau and for the office of the Chief Judge, the Chief Judge shall appoint ~~such~~ clerks and deputy clerks as ~~may be~~ necessary. A clerk of the Superior Court may also serve as the clerk of the District Court. If the business of any division or the violations bureau does not require the full-time service of a clerk, the Chief Judge may appoint a part-time clerk for ~~such that~~ division or violations bureau. Whenever the clerk is unable to perform the duties of that office or so directs, the deputy has all the power and performs all the duties of clerk. Whenever a clerk is absent or temporarily unable to perform the duties as clerk and there is no deputy clerk authorized or available to exercise the powers and perform the duties of clerk and an existing or immediate session of the court renders it necessary, the Chief Judge may designate a clerk pro tempore who has the same powers and duties of the clerk.

Sec. I-15. 4 MRSA §551, as amended by PL 1985, c. 68, §1, is further amended to read:

§551. Clerks of the judicial courts; appointments

For each county, or if the Supreme Judicial Court ~~shall have~~ has by rule established judicial regions, for each judicial region, the Chief Justice of the Superior Court shall appoint ~~such~~ clerks as ~~may be~~ necessary to serve the Superior Court. A clerk of the District Court may also serve as the clerk of the Superior Court. If the business of any county or judicial region does not require the full-time service of a clerk, the Chief Justice of the Superior Court may appoint a part-time clerk for ~~such that~~ county or region. Whenever a clerk is absent or temporarily unable to perform the duties of clerk and an existing or immediate session of the court ~~renders requires~~ it necessary, the Chief Justice of the Superior Court may designate a clerk pro tempore who ~~shall have~~ has the same powers and duties as the clerk. The clerks of the Superior Court shall also serve in their respective counties or judicial regions as clerks of the Supreme Judicial Court as needed.

Sec. I-16. 38 MRSA §347-A, sub-§4, ¶E, as enacted by PL 1995, c. 123, §4, is amended 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~~ Court Alternative Dispute Resolution Service created in Title 4, section ~~48~~ 18-B 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. I-17. Transition provisions.

1. The Court Alternative Dispute Resolution Service is the successor in every way to the powers, duties and functions of the former Court Mediation Service.

2. All existing rules, regulations and procedures in effect, in operation or promulgated in or by the Court Mediation Service or officers on the effective date of this Part are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts in effect on the effective date of this Part in the Court Mediation Service continue in effect.

4. All records, property and equipment previously belonging to or allocated for the use of the former Court Mediation Service become, on the effective date of this Part, part of the property of the Court Alternative Dispute Resolution Service.

5. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the "Court Mediation Service" may be utilized by the Court Alternative Dispute Resolution Service until existing supplies of those items are exhausted.

6. The State Court Administrator, immediately upon passage of this Part, shall take all administrative actions necessary to implement within the Judicial Department the appropriation and deappropriation of funds and the other productivity savings and changes required by this Act.

Sec. I-18. Effective date. Sections 6 to 13 of this Part take effect May 1, 1996.

PART J

Sec. J-1. 5 MRSA §940, as amended by PL 1995, c. 418, Pt. A, §39, is further amended to read:

§940. Department of Human Services

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

- A. Deputy Commissioners;
- B. Director, Bureau of Elder and Adult Services;
- C. Director, Bureau of Child and Family Services;
- D. Director, Bureau of Health;
- E. Director, Bureau of Rehabilitation;
- F. Director, Bureau of Family Independence;
- ~~G. Director, State Health Planning and Development Agency;~~
- H. Director, Bureau of Medical Services; ~~and~~
- I. Assistant Deputy Commissioners; and
- J. Three Regional Executive Managers.

Sec. J-2. 22 MRSA §1, 3rd ¶, as amended by PL 1995, c. 418, Pt. A, §1, is further 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 are under the immediate supervision, direction and control of the commissioner. These personnel 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 Family Independence; ~~Director, State Health Planning and Development Agency;~~ Director, Bureau of Medical Services; ~~and~~ Assistant Deputy Commissioners; and 3 Regional Executive Managers.

PART K

Sec. K-1. 2 MRSA §6, sub-§1, as amended by PL 1991, c. 780, Pt. Y, §1, is further amended to read:

1. Range 91. The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;
 Commissioner of Conservation;
 Commissioner of Administrative and Financial Services;
 Commissioner of Education;
 Commissioner of Environmental Protection;
 Commissioner of Human Services;
 Commissioner of Mental Health ~~and~~ Mental Retardation and Substance Abuse Services;
 Commissioner of Public Safety;
 Commissioner of Professional and Financial Regulation;
 Commissioner of Labor;
 Commissioner of Agriculture, Food and Rural Resources;
 Commissioner of Inland Fisheries and Wildlife;
 Commissioner of Marine Resources;
 Commissioner of Corrections; and
 Commissioner of Economic and Community Development.

Sec. K-2. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1995, c. 502, Pt. F, §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, Mental Retardation and Substance Abuse Services;

Associate Commissioner of Administration, Department of Mental Health, Mental Retardation and Substance Abuse Services;

Associate Commissioner for Systems Operations, Department of Mental Health, Mental Retardation and Substance Abuse Services;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections; and

Associate Commissioner for Juvenile Services, Department of Corrections.

Sec. K-3. 5 MRSA §12004-G, sub-§28, as amended by PL 1993, c. 360, Pt. A, §1, is further amended to read:

28. Mental Health and Mental Retardation and Substance Abuse Services	Region H III	Expenses Only	34-B MRSA \$3624
	Crisis Intervention Program Advisory Board		

Sec. K-4. 18-A MRSA §5-601, sub-§(b), as amended by PL 1993, c. 410, Pt. CCC, §4, is further amended to read:

(b) The ~~Division of Mental Retardation~~ Department of Mental Health, Mental Retardation and Substance Abuse Services shall act as the public guardian or conservator for ~~mentally-retarded~~ persons with mental retardation and the Department of Human Services shall act as the public guardian or conservator for other incapacitated persons in need of protective services.

Sec. K-5. 18-A MRSA §5-606, sub-§(a), as amended by PL 1993, c. 410, Pt. CCC, §5, is further amended to read:

(a) When the ~~Division of Mental Retardation~~ Department of Mental Health, Mental Retardation and Substance Abuse Services is appointed public guardian or conservator of a ~~mentally-retarded~~ person with mental retardation, the authority of the public guardian or conservator must be exercised by the Commissioner of ~~the Department of Mental Health and~~ Mental Retardation and Substance Abuse Services and by any persons duly delegated by the commissioner to exercise such authority.

Sec. K-6. 18-A MRSA §5-613, sub-§(1), as amended by PL 1993, c. 410, Pt. CCC, §6, is further amended to read:

(1) ~~Whenever~~ When the following occur, the costs of the guardian ad litem, or any other special costs, may be paid by the ~~Division of Mental Retardation~~ Department of Mental Health, Mental Retardation and Substance Abuse Services, within the limits of the ~~division's department's~~ budget, if the person involved is mentally retarded, and the costs may, in all other cases, be paid by the Department of Human Services, within the limits of the department's budget:

(a) An allegedly incapacitated person is in need of protective services and:

- (1) A guardian ad litem is appointed under the provisions of this Code; or
- (2) A court incurs special costs in a proceeding concerning such a person; and

(b) Appointment of a public guardian or conservator is sought or the allegedly incapacitated person, within 3 months prior to the filing of the petition:

- (1) Is or has been a client of the ~~Division of Mental Retardation~~ Department of Mental Health, Mental Retardation and Substance Abuse Services;
- (2) Is or has been a client of the Department of Human Services; or
- (3) Has received services from a worker from the ~~Division of Mental Retardation~~ Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Human Services.

Sec. K-7. 34-B MRSA is amended by repealing the title headnote and enacting the following in its place:

TITLE 34-B

MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Sec. K-8. 34-B MRSA §1001, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §9, is further amended to read:

2. Client. "Client" means a person receiving services from the department, ~~from the Division of Mental Health, from the Division of Mental Retardation~~, from any state institution or from any agency licensed or funded to provide services falling under the jurisdiction of the department.

Sec. K-9. 34-B MRSA §1001, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Commissioner. "Commissioner" means the Commissioner of Mental Health ~~and~~ Mental Retardation ~~and Substance Abuse Services~~ or ~~his~~ the commissioner's designee, except that when the term "commissioner and only the commissioner" is used, the term applies only to the person appointed Commissioner of Mental Health ~~and~~ Mental Retardation ~~and Substance Abuse Services~~ and not to any designee.

Sec. K-10. 34-B MRSA §1001, sub-§8, ¶F, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. K-11. 34-B MRSA §1001, sub-§8, ¶G is enacted to read:

G. Bath Children's Home. This paragraph is repealed July 1, 1996.

Sec. K-12. 34-B MRSA §1201-A, sub-§§1 to 3, as enacted by PL 1991, c. 781, Pt. D, §2 and affected by §4, are amended to read:

1. Region I. Region I is all of ~~Aroostook~~ York County ~~and all of Cumberland County~~.

2. Region II. Region II is all of ~~Piscataquis County, Penobscot County, Hancock County and Washington County~~ Franklin County, Oxford County, Androscoggin County, Somerset County, Kennebec County, Waldo County, Knox County, Lincoln County and Sagadahoc County.

3. Region III. Region III is all of ~~Somerset County, Kennebec County, Waldo County, Knox County, Lincoln County and Sagadahoc County and that portion of Cumberland County that includes the municipalities of Brunswick, Freeport and Harpswell~~ Piscataquis County, Penobscot County, Hancock County, Washington County and Aroostook County.

Sec. K-13. 34-B MRSA §1201-A, sub-§§4 and 5, as enacted by PL 1991, c. 781, Pt. D, §2 and affected by §4, are repealed.

Sec. K-14. 34-B MRSA §1204, sub-§2, ¶B, as amended by PL 1995, c. 395, Pt. C, §4, is further amended to read:

B. The commissioner may appoint and set the salaries for an associate commissioner for programs ~~and~~ an associate commissioner for administration ~~and an associate commissioner for systems operations~~ to assist in carrying out the responsibilities of the department.

(1) 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.

(5) To be eligible for appointment as associate commissioner for systems operations, a person must have training and experience in general management or administration.

Sec. K-15. 34-B MRSA §1204, sub-§2, ~~¶C~~, as amended by PL 1993, c. 410, Pt. CCC, §11 and PL 1995, c. 395, Pt. G, §11 and affected by §20, is repealed and the following enacted in its place:

C. The commissioner shall appoint the following officials to serve at the commissioner's pleasure:

- (1) Associate Commissioners;
- (2) Superintendent, Augusta Mental Health Institute;
- (3) Superintendent, Bangor Mental Health Institute;
- (4) Superintendent, Pineland Center;
- (5) Director, Mental Retardation Facility;
- (6) Director, Elizabeth Levinson Center;
- (7) Assistant to the Commissioner for Public Information;
- (8) Assistant to the Commissioner;
- (9) Director, Bath Children's Home. This subparagraph is repealed on July 1, 1996;
- (10) Regional Directors; and
- (11) Director, Office of Substance Abuse.

The Director of the Office of Substance Abuse must be reviewed by the joint standing committee of the Legislature having jurisdiction over human resource matters prior to taking office.

Sec. K-16. 34-B MRSA §1204, sub-§3, ~~¶¶A and B~~, as enacted by PL 1983, c. 459, §7, are amended to read:

A. The commissioner may delegate powers and duties given under this Title to the associate commissioners, ~~bureau directors~~ and chief administrative officers of state institutions.

B. The commissioner may empower the associate commissioners, ~~bureau directors~~ and chief administrative officers of state institutions to further delegate powers and duties delegated to them by the commissioner.

Sec. K-17. 34-B MRSA §1204, sub-§8, as enacted by PL 1989, c. 933, §2, is amended to read:

8. Physicians. ~~Employees~~ Department employees in the classifications of physician I, II and III ~~within the Department of Mental Health and Mental Retardation~~ are unclassified state employees, as defined by Title 26, section 979-A, subsection 6, and are members of bargaining units, subject to Title 26, chapter 9-B. An employee in any of these classifications ~~shall~~ must, as a condition of continued employment, maintain necessary clinical privileges to practice medicine in that employee's position as determined by the respective medical staff and the superintendent of the facility. Any termination of employment due to a loss of clinical privileges to practice medicine as referenced under this paragraph is not subject to the grievance procedure under any collective bargaining agreement.

Sec. K-18. 34-B MRSA §1205, sub-§1, as amended by PL 1989, c. 731, §1, is further amended to read:

1. Establishment. The Office of Advocacy is established within the Office of Advocacy and Consumer Affairs of the department solely to investigate the claims and grievances of clients of the department, to investigate with the Department of Human Services, as appropriate, all allegations of adult and child abuse in state institutions and to advocate on behalf of clients for compliance by any institution, other facility or agency administered, licensed or funded by the department with all laws, administrative rules and institutional and other policies relating to the rights and dignity of clients.

Sec. K-19. 34-B MRSA §1207, sub-§5, ~~¶D~~, as enacted by PL 1993, c. 593, §1, is amended to read:

D. By September 1, 1994, the department shall adopt rules to implement this subsection. The rules must include, but are not limited to, an appeal process for persons who are denied access to information under paragraph B. The appeal process must determine whether the person requesting information is a person who lives with or provides direct care to a client, whether disclosure of the information is in the best interest of the client and whether denial of access to the information will result in significant deterioration in the client's daily functioning. The commissioner shall appoint an advisory committee pursuant to Title 5, section 12002, subsection 1, paragraph A to assist the department in the development of the rules. The members of the advisory committee are not entitled to reimbursement for expenses or legislative per diem. The advisory committee must include, but is not limited to, proportionate representation from each of the following:

(1) Consumers nominated by the Director of the Office of Advocacy and Consumer Affairs;

(2) Members of the statewide alliance for the mentally ill;

(3) Mental health service providers; and

(4) The protection and advocacy agency designated pursuant to Title 5, section 19502.

Sec. K-20. 34-B MRSA §1208, sub-§4, as amended by PL 1989, c. 41, is further amended to read:

4. Payment for state agency clients. The commissioner shall authorize payment of approved mental health treatment costs for state agency clients who are placed for educational purposes ~~with the recommendation of an employee of the Bureau of Children with Special Needs~~ in an in-state residential treatment center, as identified in Title 20-A, section 1, subsection 24-A, paragraph D, subparagraph (3), to the extent of the amount of funds appropriated by the Legislature for this purpose; and may authorize payment of mental health treatment costs for similar placements in out-of-state residential placements on a case-by-case basis, within the limits of available funds. The commissioner shall further authorize payment of approved board and care and mental health treatment costs for state agency clients who are placed for other than educational purposes ~~with the recommendation of an employee of the Bureau of Children with Special Needs~~ in any residential placement, as defined in Title 20-A, section 1, subsection 24-A, to the extent of the funds appropriated by the Legislature for this purpose. ~~In no event may payments which~~ Payments that the commissioner is required to authorize under this section ~~may not~~ shall exceed the funds appropriated by the Legislature for the purposes referred to in this subsection. Payment from these funds ~~shall~~ must be made only when other appropriate state or federal funds to which the department has access have been exhausted.

Sec. K-21. 34-B MRSA §1208-A, sub-§2, as enacted by PL 1993, c. 737, §3, is amended to read:

2. Performance-based contract. The commissioner shall ensure that any agreement with the board of the regional authority for the former Region V established pursuant to Public Law 1991, chapter 781, Part C entered into on or after July 1, 1994 is a performance-based contract. The commissioner shall ensure that all agreements to purchase human services entered into on or after July 1, 1997 are performance-based contracts.

Sec. K-22. 34-B MRSA §1216, sub-§1, as amended by PL 1995, c. 127, §1, is further amended to read:

1. Responsibilities. The Consumer Advisory Board, as established by the 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 that carries out responsibilities pursuant to 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~~ person with mental retardation or autism who is a client of the department. The Consumer Advisory Board shall promote the normalization and habilitation of persons with mental retardation or autism.

Sec. K-23. 34-B MRSA §1216, sub-§3, as enacted by PL 1995, c. 127, §1, is amended to read:

3. Access to information. With regard to any institution, facility, agency or other provider serving ~~clients of the Division of Mental Retardation~~ persons with mental retardation or autism who are clients of the department or when any ~~client of the division~~ person resides or participates in work or in a program in an institution, facility, agency or other provider, 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~~ department 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.

Sec. K-24. 34-B MRSA §1218, sub-§§1 and 2, as enacted by PL 1993, c. 519, §1, are amended to read:

1. Mental health services. The ~~Division of Mental Health~~ department shall provide accommodations and services for persons who are deaf or hard-of-hearing in order to provide access to mental health programs funded or licensed by the ~~division~~ department. These accommodations must include, but are not limited to, the following:

A. Appropriate mental health assessments for clients who are deaf or hard-of-hearing;

B. Provision of interpreter services for treatment;

C. Educational and training for mental health staff providing treatment to persons who are deaf or hard-of-hearing;

D. Placement of telecommunication devices for persons who are deaf or hard-of-hearing in comprehensive community mental health facilities;

E. Support and training for families with members who are deaf or hard-of-hearing who experience mental health problems; and

F. Establishment of a therapeutic residence program for persons who are deaf or hard-of-hearing and in need of residential mental health treatment. The therapeutic residence program must be operated in conjunction with existing rehabilitation, education, mental health treatment and housing resources. The therapeutic residence program must be staffed by individuals trained in mental health treatment and proficient in communication for the deaf.

2. Mental retardation services. The ~~Division of Mental Retardation~~ department shall provide accommodations and services ensuring access for persons who are deaf or hard-of-hearing to mental retardation programs funded or licensed by the ~~division~~ department. These accommodations and services must include, but are not limited to, the following.

A. The ~~Division of Mental Retardation~~ department shall ensure the provision of appropriate assessments for clients who are deaf or hard-of-hearing. Assessments must be performed by a person who is proficient in American Sign Language and must include an assessment of mental retardation and an assessment of communication skills, including the capacity to communicate using American Sign Language. The ~~division~~ department shall survey the client population to determine which clients are deaf or hard-of-hearing.

B. For purposes of treatment, the ~~Division of Mental Retardation~~ department shall ensure the provision of interpreter services by a person proficient in American Sign Language.

C. The ~~Division of Mental Retardation~~ department shall ensure that mental retardation staff providing direct services to persons who are deaf or hard-of-hearing have education and training in American Sign Language and deaf culture.

D. The ~~Division of Mental Retardation~~ department shall provide for the placement in compre-

hensive community mental retardation facilities of telecommunication devices for persons who are deaf or hard-of-hearing.

E. The ~~Division of Mental Retardation~~ department shall ensure the provision of support and training for families with members with mental retardation who are deaf or hard-of-hearing.

F. The ~~Division of Mental Retardation~~ department shall establish therapeutic residence options for persons with mental retardation who are deaf or hard-of-hearing and in need of a residence. The therapeutic residences must be operated in conjunction with existing rehabilitation, education, mental retardation treatment and housing resources. The therapeutic residences must be staffed by individuals trained in mental retardation treatment and proficient in American Sign Language. Therapeutic residence options must be flexible and allow for individual choice.

G. The ~~Division of Mental Retardation~~ department shall designate in each regional office one staff person who is responsible for the coordination of deaf services in that office. The ~~division~~ department shall provide ongoing training to regional office staff with the goal of having at least one person in each regional office who is proficient in American Sign Language.

Sec. K-25. 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 and the~~ Chief Administrative Officer of the Aroostook Residential Center ~~reports report~~ directly to the ~~Chief Administrative Officer of the Pineland Center, who in turn reports directly to the~~ commissioner.

Sec. K-26. 34-B MRSA §1401, sub-§1, ~~¶B~~, as amended by PL 1995, c. 395, Pt. G, §12 and affected by §20, 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 and the~~ Chief Administrative Officer of the Aroostook Residential Center ~~reports report~~ directly to the commissioner, ~~or the commissioner's designee.~~

Sec. K-27. 34-B MRSA §1402, as enacted by PL 1983, c. 459, §7, is amended to read:

§1402. Community services

1. Commissioner's duty. In every state institution to which a ~~mentally ill or mentally retarded~~ person with mental illness or mental retardation may be committed, the commissioner shall organize and administer ~~under his direction a bureau for community service in the district served by the institution~~ the duties set forth in subsection 2.

2. Duties. ~~Each bureau for community service~~ The department shall:

A. Supervise clients who have left the institution with a view to their safe care at home, suitable employment and self-support under good working and living conditions, and with a view to prevention of their relapse and return to public dependency;

B. Provide for informing and advising any indigent person, ~~his~~ that person's relatives or friends and the representatives of any charitable agency as to:

(1) The mental condition of the indigent person;

(2) The prevention and treatment of the condition;

(3) The available institutions or other means of caring for the afflicted person; and

(4) Any other matter relative to the welfare of the person; and

C. Acquire and disseminate knowledge of mental disease, mental retardation and allied conditions with a view to promoting a better understanding and the most enlightened public sentiment and policy in these matters, and in this work the ~~bureau~~ department may cooperate with local authorities, schools and social agencies.

Sec. K-28. 34-B MRSA §1602, first ¶, as enacted by PL 1989, c. 591, §4, is amended to read:

The Commissioner of Mental Health ~~and, Mental Retardation, or the commissioner's designee, and Substance Abuse Services~~ shall negotiate with officials of ~~the~~ a municipality in which state institutions for both juveniles and adults constructed after the effective date of this section are located to provide state reimbursement to that municipality for the net increased costs that a new state institution imposes on that municipality. Negotiations ~~shall~~ may commence only upon request of municipal officials and only within 6 months after the net increased costs arise. As used in this section, unless the context

otherwise indicates, the following terms have the following ~~meaning~~ meanings:

Sec. K-29. 34-B MRSA §1803, as enacted by PL 1991, c. 316, §2, is amended to read:

§1803. Family support policy coordination

With the assistance and advice of the councils established in sections 1804 and 1805, the commissioner shall coordinate the development and implementation of consistent family support policies and services ~~among the department's bureaus.~~ The commissioner shall assign at least one person from each ~~bureau~~ region to carry out the duties of this subchapter. The duties include but are not limited to the following.

1. Resource allocation. Those persons assigned by the commissioner under this section shall make recommendations to the commissioner regarding the allocation or reallocation of family support resources ~~among the bureaus.~~

2. Policy development and implementation. Those persons assigned by the commissioner under this section shall develop and implement a coordinated family support policy ~~that is consistent among the bureaus.~~

~~**3. Service coordination and monitoring.** Those persons assigned by the commissioner under this section shall oversee service coordination for families who are served by more than one bureau and shall resolve interbureau disagreements.~~

4. Liaison to other departments. Those persons assigned by the commissioner under this section shall serve as the department's liaison to other departments when a family is served by more than one department.

Sec. K-30. 34-B MRSA c. 3, sub-c. I is amended by repealing the subchapter headnote and enacting the following to read:

SUBCHAPTER I**MENTAL HEALTH SERVICES**

Sec. K-31. 34-B MRSA §3001, as amended by PL 1993, c. 410, Pt. CCC, §15, is further amended to read:

§3001. General

~~There is established within the~~ The Department of Mental Health ~~and, Mental Retardation~~ the Division of Mental Health, which and Substance Abuse Services is responsible for the direction of the mental health programs in the state institutions and for the

promotion and guidance of mental health programs within the communities of the State.

Sec. K-32. 34-B MRSA §3003, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Public hearing. The ~~director~~ commissioner shall hold a public hearing before adopting these rules and shall give notice of the public hearing pursuant to the Maine Administrative Procedure Act, Title 5, section 8053.

Sec. K-33. 34-B MRSA §3004, as amended by PL 1993, c. 410, Pt. CCC, §18, is further amended to read:

§3004. Community Support Systems

1. Definition. As used in this section, unless the context otherwise indicates, the term "community support system" means the entire complex of mental health, rehabilitative, residential and other support services in the community to ensure community integration and the maintenance of a decent quality of life for persons with chronic mental illness.

2. General policy. ~~There is created within the Division of Mental Health the Office of Community Support Systems to~~ The department shall develop programs to:

A. Promote and support the development and implementation of comprehensive community support systems to ensure community integration and the maintenance of a decent quality of life for persons with chronic mental illness in each of the mental health service areas in the State; and

B. Strengthen the capacity of families, natural networks, self-help groups and other community resources in order to improve the support for persons with chronic mental illness.

3. Duties. ~~The Office of Community Support Systems~~ department shall:

A. Provide technical assistance for program development, promote effective coordination with health and other human services and develop new resources in order to improve the availability and accessibility of comprehensive community support services to persons with chronic mental illness;

B. Assess service needs, monitor service delivery related to these needs and evaluate the outcome of programs designed to meet these needs in order to enhance the quality and effectiveness of community support services;

C. Prepare a report ~~which~~ that describes the system of community support services in each of the mental health service regions and statewide.

(1) The report ~~shall~~ must include both existing service resources and deficiencies in the system of services.

(2) The report ~~shall~~ must include an assessment of the roles and responsibilities of mental health agencies, human services agencies, health agencies and involved state departments and ~~shall~~ must suggest ways in which these agencies and departments can better cooperate to improve the service system for people with chronic mental illness.

(3) The report ~~shall~~ must be prepared biennially and ~~shall~~ must be submitted to the joint standing committee of the Legislature having jurisdiction over human resources by December 15th of every even-numbered year.

(4) The committee shall review the report and make recommendations with respect to administrative and funding improvements in the system of community support services to persons with chronic mental illness; and

D. Participate in the coordination of services for persons with chronic mental illnesses with local transitional services coordination projects for handicapped youth, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

Sec. K-34. 34-B MRSA §3007, as amended by PL 1993, c. 410, Pt. CCC, §20, is further amended to read:

§3007. Teenage Suicide Prevention Program

The ~~division~~ department shall, in cooperation with the Department of Education, the Department of Human Services and the "local action councils" funded in Public Law 1987, chapter 349, Part A under the heading "Human Services, Department of," develop a teenage suicide prevention strategy and a model suicide prevention program to be presented in the secondary schools of the State. Development of such a program must include preparation of relevant educational materials that must be distributed in the schools.

Sec. K-35. 34-B MRSA §3202, sub-§4, ~~¶¶A and B,~~ as repealed and replaced by PL 1993, c. 410, Pt. CCC, §22, is amended to read:

A. The Superintendent of the Bangor Mental Health Institute has general superintendence of the Bangor Mental Health Institute and its grounds under the direction of the ~~Superintendent of the Augusta Mental Health Institute~~, commissioner and shall receive all persons legally sent to the Bangor Mental Health Institute who are in need of special care and treatment, if accommodations permit.

B. The Superintendent of the Augusta Mental Health Institute has general superintendence of the Augusta Mental Health Institute and its grounds ~~and of the Division of Mental Health~~ under the direction of the commissioner and shall receive all persons legally sent to the Augusta Mental Health Institute who are in need of special care and treatment, if accommodations permit.

Sec. K-36. 34-B MRSA §3624, as enacted by PL 1993, c. 360, Pt. A, §2, is amended to read:

§3624. Region III Crisis Intervention Program Advisory Board

1. Definition. As used in this section, "program" means the crisis intervention program established pursuant to section 3621.

2. Purpose. The Region ~~H~~ III Crisis Intervention Program Advisory Board, as established by Title 5, section 12004-G, subsection 28, advises the program.

3. Members. The board consists of 12 members as follows:

A. The superintendent of the Bangor Mental Health Institute, or the superintendent's designee;

B. The chief executive officer of the hospital that participates in the program, or the chief executive officer's designee;

C. The director of community support services for the community mental health center serving Region ~~H~~ III;

D. An individual providing services to persons who are homeless in Region ~~H~~ III, appointed by the commissioner;

E. Four consumers or family members of consumers nominated by the Alliance for the Mentally Ill of Maine and appointed by the commissioner. Members appointed under this paragraph must represent a geographical balance within Region ~~H~~ III;

F. One private mental health practitioner and 2 consumers of services for the mentally ill selected by a majority of the other members; and

G. The coordinator of the project, who is an ex officio member who may vote only in case of a tie.

Sec. K-37. 34-B MRSA §3863, sub-§4, ~~¶B~~, as repealed and replaced by PL 1989, c. 568, §§1 and 3, is amended to read:

B. The Department of Mental Health ~~and~~, Mental Retardation ~~shall be~~ and Substance Abuse Services is responsible for any transportation expenses under this section, including return from the hospital if admission is declined. The department shall utilize any 3rd-party payment sources ~~which~~ that are available.

Sec. K-38. 34-B MRSA §5001, sub-§1-A, as enacted by PL 1993, c. 410, Pt. CCC, §24, is repealed.

Sec. K-39. 34-B MRSA §5001, sub-§5, as amended by PL 1993, c. 410, Pt. CCC, §25, is further amended to read:

5. Region. "Region" means any of the regions established by the ~~division~~ department.

Sec. K-40. 34-B MRSA §5001, sub-§7, as amended by PL 1993, c. 410, Pt. CCC, §25, is further amended to read:

7. Ward. "Ward" means a person for whom the ~~division~~ department has been duly appointed guardian under Title 18-A, article V, Part 6.

Sec. K-41. 34-B MRSA §5003, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §26, is further amended by amending the first paragraph to read:

2. Responsibilities of the department. To facilitate the development of a system that meets the needs of ~~mentally-retarded~~ persons with mental retardation, the commissioner, ~~through the division~~, shall:

Sec. K-42. 34-B MRSA §5003, sub-§2, ~~¶A~~, as amended by PL 1993, c. 410, Pt. CCC, §26, is further amended to read:

A. Provide a mechanism for the identification, evaluation, treatment and reassessment of and the provision of services to ~~mentally-retarded~~ persons with mental retardation, including an habilitation program for every client served by the ~~division~~ department;

Sec. K-43. 34-B MRSA §5003, sub-§2, ¶G, as amended by PL 1993, c. 410, Pt. CCC, §26, is further amended to read:

G. Encourage other departments to provide to ~~mentally-retarded~~ persons with mental retardation those services that are required by law, and in particular:

(1) The commissioner shall work actively to ensure that ~~mentally-retarded clients~~ persons with mental retardation, as provided for in Title 20-A, chapter 303, receive educational and training services beginning at 5 years of age regardless of the degree of retardation or accompanying disabilities or handicaps;

(2) The commissioner shall advise the Department of ~~Mental Health and Mental Retardation~~ Human Services about standards and policies pertaining to administration, staff, quality of care, quality of treatment, health and safety of clients, rights of clients, community relations and licensing procedures and other areas that affect ~~mentally-retarded~~ persons with mental retardation residing in facilities licensed by the Department of Human Services; and

(3) The commissioner shall inform the joint standing committee of the Legislature having jurisdiction over human resources matters about areas where increased cooperation by other departments is necessary in order to improve the delivery of services to ~~mentally-retarded~~ persons with mental retardation; and

Sec. K-44. 34-B MRSA §5003, sub-§2, ¶H, as amended by PL 1993, c. 410, Pt. CCC, §26, is further amended to read:

H. Report annually to the joint standing committee of the Legislature having jurisdiction over human resources matters on the activities of the Consumer Advisory Board established by the ~~Pineland Consent Decree~~ community consent decree to oversee compliance with the terms of that decree. The commissioner or the commissioner's designee shall appear in person before the committee and shall provide the committee with the most recent annual audit of decree standards and the corrective action plans required by the audit. The members of the Consumer Advisory Board may attend the commissioner's presentation and provide an independent report of its activities to the committee.

Sec. K-45. 34-B MRSA §5003, sub-§3, as amended by PL 1993, c. 410, Pt. CCC, §27, is further amended by amending the first paragraph to read:

3. Plan. The commissioner, ~~through the division,~~ shall prepare a plan, subject to the following provisions.

Sec. K-46. 34-B MRSA c. 5, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

MENTAL RETARDATION SERVICES

Sec. K-47. 34-B MRSA §5201, as amended by PL 1993, c. 738, Pt. E, §1 and affected by §6, is further amended to read:

§5201. Duties

~~There is established within the Department of Mental Health and Mental Retardation the Division of Mental Retardation, which~~ The Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for:

1. Institutional programs. The supervision of adult mental retardation programs in the state institutions;

2. Statewide system. The planning, promotion, coordination and development of a complete and integrated statewide system of mental retardation services for adults;

3. Liaison. Serving as liaison, coordinator and consultant to the several state departments in order to develop the statewide system of mental retardation services;

4. Community-based services. Ensuring that adults with mental retardation residing in community residential facilities, including nursing homes, boarding homes, foster homes, group homes or halfway houses licensed by the Department of Human Services are provided, insofar as possible, with residential accommodations and access to habilitation services appropriate to their needs; and

5. Protective and supportive services. Providing protective and supportive services, in accordance with section 5203, to incapacitated persons who, with some assistance, are capable of living and functioning in society.

Sec. K-48. 34-B MRSA §5203, sub-§1, as amended by PL 1993, c. 410, Pt. CCC, §30, is further amended to read:

1. Department authority. The ~~division~~ department may provide protective or supportive services in response to complaints concerning, and requests for assistance from or on behalf of, all incapacitated persons, under the following conditions.

A. Except for seeking the appointment of a guardian, protective or supportive services may be initiated only:

(1) With the acquiescence of the incapacitated person; and

(2) After consultation, insofar as possible, with the family or the guardian of the incapacitated person.

B. The role of the ~~division~~ department must be primarily that of supervision and coordination.

Sec. K-49. 34-B MRSA §5203, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §30, is further amended to read:

2. Payment for services. Payment for services under this section is governed as follows.

A. The ~~division~~ department may pay for protective and supportive services to incapacitated persons from its own resources, by mobilizing available community resources or by purchase of services from voluntary or state agencies.

B. To the extent that assets are available to incapacitated persons or wards, the cost of services must be borne by the estate of persons receiving the services.

C. The department, ~~through the division and its other agents,~~ may receive as payee any benefits from social security, veterans' administration, railroad retirement or any other like benefits paid on behalf of any incapacitated person, and shall apply those benefits toward the care and treatment of the incapacitated person.

D. The department, ~~through the division and its other agents,~~ may operate an adaptive equipment program. Reimbursement for materials utilized in the manufacture of this equipment may be received and must be retained for use within the adaptive equipment program.

Sec. K-50. 34-B MRSA §5203, sub-§3, as amended by PL 1993, c. 410, Pt. CCC, §30, is further amended to read:

3. Rules. Adoption, amendment and appeal of rules under this section are governed as follows.

A. The ~~division~~ department shall adopt, and may amend or repeal, rules governing the administra-

tion of this section, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

B. The ~~division~~ department shall hold a public hearing before adopting, amending or repealing the rules, and shall give notice of the public hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. K-51. 34-B MRSA §5205, as amended by PL 1993, c. 410, Pt. CCC, §32, is further amended to read:

§5205. Payment of burial expenses for state wards

The department shall pay burial expenses for ~~deceased~~ persons who ~~die~~ died while wards of the ~~division~~ department as defined in section 5001, subsection 7, and who have no known survivors. The department may first apply to the cost of burial any funds that are available as part of a mortuary trust or any other funds of the ward remaining at the time of the ward's death that are available for this purpose.

Sec. K-52. 34-B MRSA §5403, sub-§2, ~~¶A,~~ as enacted by PL 1983, c. 459, §7, is amended to read:

A. The commissioner shall, with the advice of the Maine ~~Committee on Problems of the Mentally Retarded~~ Advisory Committee on Mental Retardation, appoint and set the salary for the director.

Sec. K-53. 34-B MRSA §5435, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §36, is further amended to read:

2. Department grants. The ~~Division of Mental Retardation~~ department may make grants to nonprofit corporations for amounts that are reasonable, relative to the quantity and quality of services to be provided by the grantee.

A. The ~~division~~ department may request a display of effort on the part of the grantee that appropriate local governmental and other funding sources have been sought to assist in the financing of the services for which the ~~division~~ department is making the grant.

B. The ~~division~~ department shall give consideration to the ability of the municipality or governmental unit to support the mental retardation services, as reflected by the State's evaluation of the component communities.

C. In making grants to unincorporated associations or nonstock corporations, the ~~division~~ department shall take into account all income and resources.

Sec. K-54. 34-B MRSA §5437, first ¶, as amended by PL 1993, c. 410, Pt. CCC, §37, is further amended to read:

The ~~division~~ department shall establish a contingency fund for use by community-based intermediate care facilities for ~~the mentally retarded persons with mental retardation and bureau department~~ clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day treatment programs. This fund must be used in accordance with the following provisions.

Sec. K-55. 34-B MRSA §5466, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §39, is further amended to read:

2. List. The commissioner shall develop a list of advocates for each region ~~of the Division of Mental Retardation~~.

Sec. K-56. 34-B MRSA §5467, sub-§1, as amended by PL 1993, c. 410, Pt. CCC, §40, is further amended to read:

1. Application. An application for mental retardation services, on a form provided by the commissioner, must be initiated at or referred to a regional office of the ~~Division of Mental Retardation or the Infant Development Center~~ department.

Sec. K-57. 34-B MRSA §5469, sub-§3, ¶A, as enacted by PL 1983, c. 580, §20, is amended to read:

A. The department, through the regional office ~~or the Infant Development Center~~, shall develop a prescriptive program plan or service plan, or both; and

Sec. K-58. 34-B MRSA §5471, sub-§2, ¶E, as enacted by PL 1983, c. 459, §7, is amended to read:

E. The ~~chief administrative officer~~ regional director or designee of the appropriate regional office, if a client is being admitted to or discharged from a facility or if a client is under the supervision of the regional office;

Sec. K-59. 34-B MRSA §5473, sub-§1, ¶B, as amended by PL 1993, c. 410, Pt. CCC, §41, is further amended to read:

B. Respite care may be provided, upon application to the regional office of the ~~division~~ department by the client, guardian or parent, for not more than 21 days at a time and not more than 60 days during any 12-month period.

Sec. K-60. 34-B MRSA §5609, sub-§1, as amended by PL 1993, c. 708, Pt. A, §12, is further amended by amending the first paragraph to read:

1. Habilitation services. The ~~Department of Mental Health and Mental Retardation, through the Division of Mental Retardation, department~~ and the Department of Education Labor, through the Office of Rehabilitation Services, shall provide, to the extent of the resources available, for those habilitation and vocational rehabilitation services, defined in Title ~~20-A~~ 26, section ~~18002~~ 1411-A, subsection 6, and any other service, including, but not limited to, supported employment including work in rehabilitation facilities and work centers, as defined in Title 5, chapter 155, subchapter II; job coaching; transportation, recreational and leisure services; and respite or day programs designed in consultation with an interdisciplinary team in order to make available to persons receiving services those services that are otherwise not obtainable, in the following order of priority:

Sec. K-61. 34-B MRSA §5609, sub-§2, as amended by PL 1993, c. 410, Pt. CCC, §43, is further amended to read:

2. Payment for service. The ~~Division of Mental Retardation~~ department shall establish a voucher system to allow the interdisciplinary team to incorporate only those services determined critical and otherwise unavailable into a program, including work, habilitation and other services designated in subsection 1, when appropriate. The ~~division~~ department shall establish a limit on the amount of transitional services available to persons receiving services eligible for services under this section.

Sec. K-62. 34-B MRSA §5609, sub-§3, as amended by PL 1993, c. 410, Pt. CCC, §43, is further amended to read:

3. Rules. The ~~Division of Mental Retardation~~ department shall adopt rules in accordance with the Maine Administrative Procedure Act to establish a transitional program under subsections 1 and 2.

Sec. K-63. 34-B MRSA §6003, as amended by PL 1993, c. 410, Pt. CCC, §44, is further amended to read:

§6003. Rules

The ~~Division of Mental Retardation~~ department shall adopt rules governing the definition of autism and other pervasive developmental disorders in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. K-64. 34-B MRSA §6004, first ¶, as amended by PL 1993, c. 410, Pt. CCC, §45, is further amended to read:

The commissioner, ~~through the Division of Mental Retardation~~, shall submit a report on efforts to plan for and develop social and habilitative services for persons who have autism and other pervasive developmental disorders to the Governor and the joint standing committee of the Legislature having jurisdiction over health and institutional services matters. This report must be submitted no later than January 15th of every odd-numbered year and must be submitted in conjunction with the plan required by section 5003, subsection 3.

Sec. K-65. 34-B MRSA c. 6, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

CHILDREN'S SERVICES

Sec. K-66. 34-B MRSA §6201, sub-§1, as enacted by PL 1985, c. 503, §12, is repealed.

Sec. K-67. 34-B MRSA §6201, sub-§2, ¶C, as amended by PL 1993, c. 738, Pt. E, §3 and affected by §6, is further amended to read:

C. A person 18 years of age or older and under 21 years of age who has treatment needs related to mental illness, mental retardation, autism, developmental disabilities or emotional or behavioral needs if the department has determined that it is in the interest of that person to receive treatment through the ~~bureau~~ department.

Sec. K-68. 34-B MRSA §6201, sub-§2-A, as enacted by PL 1987, c. 778, §3, is amended to read:

2-A. Respite care. "Respite care" means temporary care-giving to a child or adult for the purpose of relieving that person's family or another primary care-giver. Persons who have completed the training program for respite care providers through the Department of Human Services or the Department of Mental Health ~~and~~ Mental Retardation and Substance Abuse Services are eligible for any insurance provided to family foster home providers pursuant to Title 5, section 1728-A. In any action for damages against a respite care provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claims for and award of those damages, including costs and interest, ~~shall may~~ not exceed \$300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is

located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit ~~shall must~~ be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be ~~deemed construed~~ to make respite care a state activity nor may it expand in any way the liability of the State or respite care provider.

Sec. K-69. 34-B MRSA §6203, sub-§1, as amended by PL 1993, c. 624, §§3 and 4, is further amended by amending the first paragraph to read:

1. System. In order to facilitate the development and operation of a coordinated, statewide system of services to children in need of treatment and their families, the commissioner, ~~through the bureau~~, shall:

Sec. K-70. 34-B MRSA §6203, sub-§2, as amended by PL 1989, c. 700, Pt. A, §167, is further amended to read:

2. Plan. The commissioner, ~~through the bureau~~, shall serve as an advocate for children in need of treatment; shall monitor, review and evaluate not less than annually the allocation and adequacy of services provided by the department; and shall prepare and maintain a plan that meets the following criteria.

A. The plan ~~shall must~~ indicate the most effective and efficient manner in which to implement services and programs for children in need of treatment and their families, while safeguarding and respecting the legal and human rights of these children and families.

B. The plan ~~shall must~~ specifically indicate how gaps in services for children in need of treatment and their families can best be met.

C. The plan ~~shall must~~ establish a procedure for setting priorities among the various services required by children in need of treatment and their families, in cooperation with other agencies of State Government that provide services to children and families, including, but not limited to, the Department of Corrections, Department of Education and Department of Human Services.

D. The plan ~~shall must~~ specifically indicate the department's efforts in ~~assuring ensuring~~ that services to children in need of treatment and their families are effectively coordinated with existing resources and procedures of all ~~Department of Mental Health and Mental Retardation~~ the department's institutions and programs.

E. The plan ~~shall~~ must be prepared in the even-numbered years for submission to the joint standing committee of the Legislature having ~~jurisdiction~~ jurisdiction over human resources and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than January 30th of the odd-numbered years ~~beginning in 1987~~.

F. The plan ~~shall assure~~ must ensure that children with divergent treatment needs are not inappropriately mixed while in residence at ~~state operated~~ state-operated facilities for children with special needs.

G. The plan ~~shall~~ must indicate the State's progress in ~~assuring~~ ensuring the development of an array of family support services to enable families to more adequately maintain their children in need of treatment in their natural homes and communities.

Sec. K-71. 34-B MRSA §6204, as amended by PL 1989, c. 700, Pt. A, §168, is further amended to read:

§6204. Department duties

1. Duties. ~~There is established, within the Department of Mental Health and Mental Retardation, the Bureau of Children with Special Needs. The bureau~~ The department shall:

A. Strengthen the capacity of families, natural helping networks, self-help groups and other community resources to support and serve children in need of treatment;

B. Facilitate the planning, promoting, coordination, delivery and evaluation of a complete and integrated statewide system of services to children in need of treatment and their families; and

C. Support those services appropriate to children in need of treatment and their families, including, but not necessarily limited to, the following:

- (1) Advocacy;
- (2) Assessment and diagnosis;
- (3) Child development;
- (4) Consultation and education;
- (5) Crisis intervention;
- (6) Family guidance and counseling;
- (7) Preventive intervention;
- (8) Professional consultation and training;

(9) Respite care and other family support services; and

(10) Treatment.

2. Powers. The ~~bureau~~ department may perform the duties described in subsection 1 and may provide services to children in need of treatment through state-operated facilities and programs or through contracts and grants to public and private agencies. In all cases, the ~~bureau~~ department shall ensure that services are provided in the least restrictive setting consistent with the child's needs, commensurate with the resources available to the ~~bureau~~ department and in coordination with services and resources of other state agencies serving children and families. Emphasis ~~shall~~ must be placed on maintaining each child in ~~his~~ the child's natural home or in an alternative placement within the community whenever possible.

2-A. Improvement and expansion of day treatment services for emotionally handicapped children. The ~~bureau~~ department shall work cooperatively with the Department of Corrections, Department of Education and the Department of Human Services to improve and expand day treatment programs for emotionally handicapped school-age children so that they and their families may receive necessary, appropriate and coordinated therapeutic and educational services in home and community settings, reducing the likelihood that out-of-home or residential treatment placements will be required. The ~~Department of Mental Health and Mental Retardation~~ department shall license these programs pursuant to sections 3603 and 3606. The Department of Education shall approve these programs pursuant to Title 20-A, chapter 206. The 2 departments shall jointly develop standards to ensure a consistent high quality throughout the State.

3. ~~Appointment of director.~~ ~~The commissioner shall, with the advice of the Maine Advisory Committee on Children with Special Needs, appoint and set the salary for the director of the bureau, subject to the approval of the Governor. Notwithstanding any other law, the commissioner may delegate any employee of the department to serve, for a period not to exceed 180 days, as acting director of the bureau, if the office of the director is vacant. Service as acting director shall be considered a temporary additional duty for the person so delegated.~~

4. Qualifications of director. To be eligible for appointment as director, a person must have:

A. A graduate degree in child development, social welfare or a related field; and

B. At least 5 years of experience in the administration of children's services programs or satis

~~factory experience in work of a comparable nature.~~

5. Term. ~~The director shall serve at the pleasure of the commissioner.~~

6. Duties and powers of director. ~~In addition to other duties and powers set out in this chapter, the director:~~

~~A. Shall report directly to the commissioner;~~

~~B. Shall carry out the duties and responsibilities of the bureau; and~~

~~C. May promulgate, amend or repeal rules governing the administration of this chapter in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.~~

Sec. K-72. 34-B MRSA §6205, as enacted by PL 1993, c. 738, Pt. E, §4 and affected by §6, is amended to read:

§6205. Services for juveniles committed to the Maine Youth Center

1. Department authority. ~~The bureau department~~ may provide consultation services to any juvenile with mental retardation committed to the Maine Youth Center if those services are requested by the Commissioner of Corrections. Consultation services may include participation by appropriate ~~bureau department~~ professionals on the Clinical Services Committee of the Maine Youth Center in order to assist in the design of individual treatment plans to provide habilitation, education and skill training to juveniles with mental retardation in residence at the Maine Youth Center.

2. Support services. Whenever a program has been designed for a juvenile with mental retardation by the Clinical Services Committee of the Maine Youth Center and the clinical services committee has included participation by the ~~bureau department~~ professionals, the ~~bureau department~~ shall provide, insofar as possible, support services to implement that program.

3. Case management. ~~The bureau department~~ may provide case management services to juveniles with mental retardation who are released from the Maine Youth Center.

Sec. K-73. 34-B MRSA §6241, sub-§2, as amended by PL 1993, c. 360, Pt. F, §1, is further amended to read:

2. Duties and compensation. The committee shall act in an advisory capacity to the commissioner ~~and to the Director of the Bureau of Children with Special Needs~~ in assessing present programs, planning

future activities and developing the means to meet the needs of children in need of treatment and their families. Members of the committee ~~shall~~ serve without pay, but ~~shall be~~ are reimbursed for expenses incurred in the performance of their duties on the same basis as state employees, but including child care services.

A. The committee shall monitor the adoption of rules defining the rights of children who need services and make recommendations to the department about improving the rules.

B. The committee shall provide advice and direction to the ~~director~~ commissioner concerning the effective and efficient management of ~~the Bath Children's Home and the Elizabeth Levinson Center and, while it remains a state institution, the Bath Children's Home~~ in coordination with long-range missions and priorities of the ~~bureau department~~. The committee may inspect ~~the Bath Children's Home and the Elizabeth Levinson Center~~ and ~~may~~ make recommendations on the management of those institutions to the ~~director and the~~ commissioner.

C. Annually, the committee shall submit a report to the commissioner and the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the implementation of the rights of children who need services.

Sec. K-74. 34-B MRSA §6241, sub-§3, as enacted by PL 1993, c. 360, Pt. F, §2, is amended to read:

3. Access. Committee members have access to all living areas, program areas and records of the Elizabeth Levinson Center, the Bath Children's Home and facilities that contract with the ~~Bureau of Children with Special Needs department~~, provided that as long as the access conforms with the laws regarding confidentiality of mental health information.

Sec. K-75. 34-B MRSA §6251, as enacted by PL 1985, c. 503, §12, is amended to read:

§6251. Maintenance of facilities

The department shall maintain and ~~the bureau shall be~~ is responsible for the supervision of services in the following 2 facilities for children in need of treatment:

1. Elizabeth Levinson Center. Elizabeth Levinson Center; and

2. Bath Children's Home. ~~Military and Naval Children's Home~~ Until June 30, 1996, Bath Children's Home.

Sec. K-76. 34-B MRSA §6252, sub-§4, ¶B, as enacted by PL 1985, c. 503, §12, is amended to read:

B. Respite care may be provided to any person by the center without full compliance with the procedures for admission by judicial certification under section 5475, if:

(1) The purpose of the respite care is for evaluation, diagnosis or other clearly stated and broadly defined therapeutic purposes of the person or ~~his~~ the person's family;

(2) Respite care may be provided, upon application to the ~~bureau~~ department by the person, ~~his~~ the person's guardian or ~~his~~ the person's parent, for not more than 21 days at a time and not more than 60 days during any 12-month period; or

(3) Continuing placement in the center beyond the time periods stated in subparagraph 2, if indicated, may be accomplished only upon full compliance with section 5475.

Sec. K-77. 34-B MRSA §6253-A, sub-§7 is enacted to read:

7. Repeal. This section is repealed July 1, 1996.

Sec. K-78. 34-B MRSA §6254, sub-§1, as enacted by PL 1985, c. 503, §12, is repealed.

Sec. K-79. 34-B MRSA §6254, sub-§1, as amended by PL 1995, c. 395, Pt. G, §18 and affected by §20, is repealed.

Sec. K-80. 34-B MRSA §6254, sub-§2, as enacted by PL 1985, c. 503, §12, is amended to read:

2. Report to commissioner. By July 1st of even-numbered years, the superintendent of the facilities referred to in subsection 1 shall report to the commissioner as to the number of children and adolescents served in each program of their respective institutions and as to the purposes of those services provided. ~~The Director of the Bureau of Children with Special Needs shall be consulted as part of the preparation of this report.~~ The report ~~shall~~ must also include plans for proposed services to children in need of treatment ~~which shall~~ that must be reflective of needs expressed regionally by other state and governmental agencies, private providers and parents of children in need of treatment.

Sec. K-81. Bath Children's Home request for proposal exemption. The provisions of the Maine Revised Statutes, Title 34-B, section 1208-A, subsection 4, paragraphs A and B do not apply to the Department of Mental Health, Mental Retardation and

Substance Abuse Services in issuing a request for proposal to contract out the services currently offered at the Bath Children's Home.

Sec. K-82. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Department of Mental Health and Mental Retardation" appear or reference is made to those words, they are amended to read and mean "Department of Mental Health, Mental Retardation and Substance Abuse Services" and the Revisor of Statutes shall implement these revisions when updating, publishing or republishing the statutes.

PART L

Sec. L-1. 5 MRSA §20002, sub-§2, as amended by PL 1991, c. 601, §2, is further amended to read:

2. Single administrative unit. To establish a single administrative unit within ~~State Government, accountable directly to the Governor~~ the Department of Mental Health, Mental Retardation and Substance Abuse Services, with responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services.

Sec. L-2. 5 MRSA §20002, sub-§3-B is enacted to read:

3-B. Commissioner. "Commissioner" means the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services.

Sec. L-3. 5 MRSA §20004, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed and the following enacted in its place:

§20004. Office established

1. Administrative location. The Office of Substance Abuse is established as an administrative unit of the Department of Mental Health, Mental Retardation and Substance Abuse Services. The office is a distinct unit within the Department of Mental Health, Mental Retardation and Substance Abuse Services and is the sole agency of the State responsible for administering this Act.

2. Continuity. The Department of Mental Health, Mental Retardation and Substance Abuse Services shall strive to ensure the continuity of programs and policies, to be carried out under this Act that have been transferred to it from the department.

Sec. L-4. 5 MRSA §20005, sub-§5, as amended by PL 1991, c. 850, §3, is further amended to read:

5. Budget. Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The office shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The office shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs;

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the Office of Substance Abuse is restricted solely to the use of that office and may not be used for expenses of any other part of the department. By January 15th of each year, the director shall deliver a report of the budget and expenditures of the office to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

Sec. L-5. 5 MRSA §20005, sub-§6, as amended by PL 1993, c. 349, §21, is further amended to read:

6. Contracts and licensing. Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, and community-based service providers pursuant to section 20024 and subchapter V; and

~~C. Ensure community participation by funding regional alcohol councils to:~~

~~(1) Assist in the development of comprehensive state plans, the review of the effectiveness of existing policies and services, and the identification of unmet needs;~~

~~(2) Review and comment on proposed grants and contracts;~~

~~(3) Increase public awareness and participation;~~

~~(4) Supply general reference information; and~~

~~(5) Advocate for individuals in need of assistance.~~

~~The director shall ensure that councils are funded in a manner that recognizes local differences in cost and travel distances and allows equal provision of services in each geographic area to the extent that funds are available within the office for this purpose.~~

The ~~director~~ commissioner may delegate contract and licensing duties under this subsection to the Department of Human Services, the Department of Corrections or other divisions of the ~~Department of Mental Health and Mental Retardation~~ department as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health and mental retardation facilities are consolidated within the ~~Department of Mental Health and Mental Retardation~~ department.

The ~~director~~ commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The ~~director~~ commissioner may not issue requests for proposals for existing contract services until the ~~director~~ commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

Any new contract must be awarded through a request-for-proposal procedure and 1/3 of the contracts of \$100,000 per year or more that are renewed must be awarded through a request-for-proposal procedure at least every 2 years.

The ~~director~~ commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

Sec. L-6. 5 MRSA §20005-A, as amended by PL 1995, c. 402, Pt. B, §1, is further amended to read:

§20005-A. Performance-based contracts

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the ~~director~~ commissioner shall manage all funds available for the provision of alcohol or other drug abuse services in accordance with the provisions of this section.

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

A. "Agreement" means a legally binding written document between 2 or more parties, including ~~such~~ those documents ~~as~~ that are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

2. Performance-based contract. The ~~director~~ commissioner shall ensure that all agreements to purchase alcohol or other drug abuse services entered into on or after July 1, 1995 are performance-based contracts.

3. Rules. The ~~director~~ commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

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

A. The ~~director~~ 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 ~~director~~ 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 ~~director~~ 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 ~~director~~ 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 ~~director~~ commissioner retains the right to reject any bids submitted and any proposals made during negotiations pursuant to paragraph C.

Sec. L-7. 5 MRSA §20006, as amended by PL 1991, c. 601, §§8 and 9, is repealed.

Sec. L-8. 5 MRSA §20006-A is enacted to read:

§20006-A. Director

The director shall:

1. Alternatives. Propose alternatives to current alcohol and drug abuse prevention and treatment programs and services;

2. Investigate. Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the office or providing treatment under this chapter through a contract with the office under section 20008, that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

3. Other duties and powers. Carry out other duties and exercise other powers granted to the director under this Act and delegated to the director by the commissioner under Title 34-B, section 1204, subsection 3.

Sec. L-9. 5 MRSA §20065, sub-§8, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

8. Administrative and financial assistance. The office shall provide the commission administrative or financial assistance that from time to time may be reasonably required to carry out its activities. Reasonable and proper expenses of the commission must be borne by the office from available state or federal funds is available from office resources.

Sec. L-10. 5 MRSA §20067, sub-§1, as enacted by PL 1993, c. 410, Pt. LL, §12, is repealed.

Sec. L-11. 5 MRSA §20067, sub-§1-A is enacted to read:

1-A. Advise the office. The commission shall advise the office in the development and implementation of significant policy matters relating to substance abuse.

Sec. L-12. 5 MRSA §20072, first ¶, as amended by PL 1991, c. 850, §6, is further amended to read:

The Driver Education and Evaluation Programs are established in the ~~Office of Substance Abuse and office.~~ The Driver Education and Evaluation Programs shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The office shall certify to the Secretary of State:

Sec. L-13. 34-B MRSA §1203, sub-§9 is enacted to read:

9. Office of Substance Abuse. The commissioner shall administer and carry out the purposes of the Maine Substance Abuse Prevention and Treatment Act.

Sec. L-14. Report; legislation. By December 15, 1996, the Director of the Office of Substance Abuse shall submit legislation to the First Regular Session of the 118th Legislature to revise the Maine Revised Statutes to reflect the transfer of the Office of Substance Abuse to the Department of Mental Health, Mental Retardation and Substance Abuse Services, in accordance with this Part.

Sec. L-15. Personnel transferred. Employees of the Office of Substance Abuse whose positions are transferred to the Department of Mental Health, Mental Retardation and Substance Abuse Services under this Part retain their positions within the Department of Mental Health, Mental Retardation and Substance Abuse Services and their employment rights, privileges and benefits, including sick leave and vacation. The Bureau of Human Resources within the Department of Administrative and Financial Services shall assist with the orderly implementation of this section.

PART M

Sec. M-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 copier costs, as calculated by the Division of Purchases, in the All Other

appropriations 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 section 2 of this Part among the affected accounts as appropriated adjustments.

Sec. M-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		
Departments and Agencies - Statewide		
All Other	(\$106,541)	(\$149,567)
Provides for the deappropriation of funds related to the General Fund share of savings associated with the reductions in copier costs resulting from the contract rebidding process pursuant to plans submitted to the Productivity Realization Task Force.		

PART N

Sec. N-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		
Executive Branch Departments and Independent Agencies - Statewide		
Personal Services	\$153,189	\$158,756
All Other	2,641,366	8,628,150
Capital Expenditures	228,114	
Provides for the appropriation of funds to offset the remaining balance of the deappropriation made in Public Law 1995, chapter 368, Part H.		

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
TOTAL	<u>\$3,022,669</u>	<u>\$8,786,906</u>

PART O

Sec. O-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		
Office of the Commissioner - Administrative and Financial Services		
All Other	(\$1,028)	(\$1,028)
Capital Expenditures	(6,000)	
TOTAL	<u>(7,028)</u>	<u>(1,028)</u>
Provides for the deappropriation of funds through the reduction of controllable expenses.		
Administration - Human Resources		
All Other	(35,000)	(35,000)
Provides for the deappropriation of funds through the reduction of controllable expenses.		
Accounts and Control - Bureau of		
All Other	(35,000)	(35,000)
Provides for the deappropriation of funds through the reduction of controllable expenses.		
Accounts and Control - Bureau of - Systems Project		
All Other	(90,000)	
Capital Expenditures	(30,000)	
TOTAL	<u>(120,000)</u>	
Provides for the deappropriation of funds through the reduction of controllable expenses.		

Budget - Bureau of the

All Other	(3,900)	(3,900)
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Provides for the deappropriation of funds through the reduction of controllable expenses.

Buildings and Grounds Operations

All Other	(125,112)	
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Provides for the deappropriation of funds through the reduction of controllable expenses and repair costs.

Elderly Householders' Tax Refund

All Other	(31,320)	(31,320)
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Provides for the deappropriation of funds through the reduction of controllable administrative expenses.

Employee Relations - Office of

All Other	(16,700)	(10,000)
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Provides for the deappropriation of funds through the reduction of controllable expenses.

Financial and Personnel Services - Division of

All Other	(3,500)	(3,500)
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Provides for the deappropriation of funds through the reduction of controllable expenses.

Productivity Realization Task Force

All Other	(60,000)	
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Provides for the deappropriation of funds through the reduction of controllable expenses.

Public Improvements - Planning/Construction - Administration

All Other	(3,833)	(3,833)
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Provides for the deappropriation of funds through the reduction of

controllable operating costs.			Provides for the deappropriation of funds from the reduction of general operating expenses.	
Public Improvements - Division of Safety and Environment Services			Public Services - Agriculture	
All Other	(2,732)	(2,732)	Capital Expenditures	(58,000)
Provides for the deappropriation of funds through the reduction of controllable expenses.			Provides for the deappropriation of funds from the reduction of general operating expenses.	
Taxation - Bureau of			Food Assistance Program	
All Other	(32,418)	(132,418)	All Other	(20,982)
Capital Expenditures	(100,000)		Provides for the deappropriation of funds from the reduction of general operating expenses.	
TOTAL	(132,418)	(132,418)	Marketing Services - Agriculture	
Provides for the deappropriation of funds through the reduction of controllable expenses.			All Other	(16,376)
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES			Provides for the deappropriation of funds from the reduction of general operating expenses.	
TOTAL	(576,543)	(258,731)	Division of Plant Industry	
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF			All Other	(1,379)
Office of Agricultural, Natural and Rural Resources			Provides for the deappropriation of funds from the reduction of general operating expenses.	
All Other	(1,822)		Office of Planning, Policy, Legislation, and Information Services	
Provides for the deappropriation of funds from the rural resources and soil and water programs through the reduction of general operating expenses.			All Other	(17,521)
Agricultural Production			Capital Expenditures	(7,122)
All Other	(2,634)		TOTAL	(24,643)
Capital Expenditures	(16,903)		Provides for the deappropriation of funds from the reduction of general operating expenses.	
TOTAL	(19,537)		Division of Market and Production Development	
Provides for the deappropriation of funds from the reduction of general operating expenses and capital equipment purchases.			All Other	(1,379)
Agricultural and Rural Resource Development			Provides for the deappropriation of funds	
All Other	(508)			

from the reduction of general operating expenses.			Provides for the deappropriation of funds from a reduction in operating expenses.		
Soil and Water Conservation Commission			Land Use Regulation Commission		
All Other	(6,000)		All Other	(32,558)	
Provides for the deappropriation of funds from the reduction of general operating expenses.			Provides for the deappropriation of funds from a reduction in operating expenses.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL	<hr/> (150,626)		Natural Areas Program		
ARTS COMMISSION, MAINE			All Other	(1,820)	(1,820)
Arts - Administration			Provides for the deappropriation of funds from a reduction in operating expenses.		
All Other	(11,570)	(11,570)	Parks - General Operations		
Provides for the deappropriation of funds due to savings achieved in this program.			All Other		(878)
MAINE ARTS COMMISSION TOTAL	<hr/> (11,570)	<hr/> (11,570)	Provides for the deappropriation of funds from a reduction in operating expenses.		
CONSERVATION, DEPARTMENT OF			Policy Planning and Information		
Administration - Forestry			All Other	(18,296)	
All Other	(4,920)	(4,920)	Provides for the deappropriation of funds from a reduction in operating expenses.		
Provides for the deappropriation of funds from a reduction in operating expenditures.			Engineering and Realty		
Administrative Services - Conservation			All Other	(878)	
All Other	(5,930)	(5,930)	Provides for the deappropriation of funds from a reduction in operating expenses.		
Provides for the deappropriation of funds from a reduction in operating expenses.			DEPARTMENT OF CONSERVATION TOTAL	<hr/> (73,667)	<hr/> (22,813)
Forest Management, Utilization and Marketing			CORRECTIONS, DEPARTMENT OF		
All Other	(4,283)	(4,283)	Correctional Center		
Provides for the deappropriation of funds from a reduction in operating expenses.			All Other	(20,000)	(20,000)
Insect and Disease Management			Provides for the deappropriation of funds from a reduction in general operating expenses and the purchase of supplies.		
All Other	(4,982)	(4,982)			

Downeast Correctional Facility

All Other	(15,224)	(15,224)
Provides for the deappropriation of funds from a reduction in general operating expenses and the purchase of supplies.		

DEPARTMENT OF CORRECTIONS TOTAL

(35,224)	(35,224)
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ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**Administration - Economic and Community Development**

All Other	(26,207)
Capital Expenditures	(6,000)
TOTAL	(32,207)

Provides for the deappropriation of funds from the reduction of general operating expenses and Capital Expenditures.

Business Development

All Other	(42,703)
Provides for the deappropriation of funds from the reduction of general operating expenses.	

Community Development Block Grant Program

All Other	(13,896)
Provides for the deappropriation of funds from the reduction of general operating expenses.	

Economic Conversion Division

All Other	(16,351)
Provides for the deappropriation of funds from the reduction of general operating expenses.	

Maine Economic Growth Council

All Other	(45,000)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

Energy Resources - Office of

All Other	(2,686)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

Maine State Film Commission

All Other	(5,734)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

International Commerce

All Other	(33,132)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

Maine Small Business Commission

All Other	(426)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

Office of Tourism

All Other	(44,141)
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Provides for the deappropriation of funds from the reduction of general operating expenses.

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL

(236,276)

EDUCATION, STATE BOARD OF**State Board of Education**

All Other	(81,969)	(81,969)	Educational Restructuring and Improvements		
Provides for the deappropriation of funds due to savings achieved in this program.			All Other	(329,756)	
			Provides for the deappropriation of funds due to savings achieved in this program.		
STATE BOARD OF EDUCATION					
TOTAL	<u>(81,969)</u>	<u>(81,969)</u>			
EDUCATION, DEPARTMENT OF			Division of Finance		
Administrative Office of the Commissioner			All Other	(3,273)	(3,273)
All Other	(6,291)	(6,291)	Provides for the deappropriation of funds due to savings achieved in this program.		
Provides for the deappropriation of funds due to savings achieved in this program.			Division of Higher Education		
			All Other	(7,033)	(7,033)
Administrative Services Unit			Provides for the deappropriation of funds due to savings achieved in this program.		
All Other	(978)	(978)	Division of Instruction		
Provides for the deappropriation of funds due to savings achieved in this program.			All Other	(81,647)	(81,647)
			Provides for the deappropriation of funds due to savings achieved in this program.		
Division of Adult Education			Division of Management Information		
All Other	(7,572)	(7,572)	All Other	(25,940)	(25,940)
Provides for the deappropriation of funds due to savings achieved in this program.			Provides for the deappropriation of funds due to savings achieved in this program.		
			Preschool Handicapped		
Division of Applied Technology			All Other	(975)	(975)
All Other	(8,073)	(8,073)	Provides for the deappropriation of funds due to savings achieved in this program.		
Provides for the deappropriation of funds due to savings achieved in this program.			Rehabilitation Services		
Blind and Visually Impaired - Division for the			All Other	(61,144)	(61,144)
All Other	(9,293)	(9,293)	Provides for the deappropriation of funds due to savings achieved in this program.		
Provides for the deappropriation of funds due to savings achieved in this program.			Division of School Business Services		
Certification, Placement and Teacher Education			All Other	(12,654)	(12,654)
All Other	(10,903)	(10,903)			
Provides for the deappropriation of funds due to savings achieved in this program.					

Provides for the deappropriation of funds due to savings achieved in this program.			Oil and Hazardous Materials Control		
			All Other	(2,306)	(2,568)
Division of Special Services			Provides for the deappropriation of funds through a reduction in operating expenses.		
All Other	(55,751)	(55,751)	Water Quality Control		
Provides for the deappropriation of funds due to savings achieved in this program.			All Other	(61,924)	
Support Services Unit			Provides for the deappropriation of funds through a reduction in operating expenses.		
All Other	(1,149)	(1,149)	DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	(131,615)	(50,000)
Provides for the deappropriation of funds due to savings achieved in this program.			EXECUTIVE DEPARTMENT		
DEPARTMENT OF EDUCATION TOTAL	(622,432)	(292,676)	Planning Office		
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			All Other	(76,409)	(46,476)
Administration - Environmental Protection			Provides for the deappropriation of funds from a reduction in operating expenses.		
All Other	(12,359)	(14,700)	Driver Education and Evaluation Program - Substance Abuse		
Provides for the deappropriation of funds through a reduction in operating expenses.			All Other	(35,208)	
Air Quality Control			Capital Expenditures	(630)	
All Other	(7,022)	(10,382)	TOTAL	(35,838)	
Provides for the deappropriation of funds through a reduction in operating expenses.			Provides for the deappropriation of funds by reducing instructor payments and instructor travel.		
Land Quality Control			Office of Substance Abuse		
All Other	(48,004)		All Other	(31,900)	
Provides for the deappropriation of funds through a reduction in operating expenses.			Capital Expenditures	(599)	
Land and Water Quality Control			TOTAL	(32,499)	
All Other		(22,350)	Provides for the deappropriation of funds by reducing general operations, supplies and informational materials.		
Provides for the deappropriation of funds through a reduction in operating expenses.			EXECUTIVE DEPARTMENT TOTAL	(144,746)	(46,476)
			HISTORIC PRESERVATION COMMISSION, MAINE		

Historic Preservation Commission

All Other (2,923) (2,923)

Provides for the deappropriation of funds due to savings achieved in this program.

MAINE HISTORIC PRESERVATION COMMISSION TOTAL

(2,923) (2,923)

LABOR, DEPARTMENT OF**Administration - Labor**

All Other (2,729) (2,935)

Provides for the deappropriation of funds from a reduction in operating expenses.

Administration - Bureau of Labor Standards

All Other (8,023) (8,646)

Provides for the deappropriation of funds from a reduction in operating expenses.

Job Training Partnership Program

All Other (8,732) (5,190)

Provides for the deappropriation of funds from a reduction in operating expenses.

Labor Relations Board

All Other (4,483) (4,112)

Provides for the deappropriation of funds from a reduction in operating expenses.

Occupational Information Coordination

All Other (595) (6,012)

Provides for the deappropriation of funds from a reduction in operating expenses.

Regulation and Enforcement

All Other (19,705) (20,438)

Provides for the deappropriation of funds from a reduction in operating expenses.

Star

All Other (9,169) (6,894)

Provides for the deappropriation of funds from a reduction in operating expenses.

DEPARTMENT OF LABOR TOTAL

(53,436) (54,227)

LIBRARY, MAINE STATE**Library Development Services**

All Other (4,530) (3,490)

Capital Expenditures (2,860)

TOTAL (7,390) (3,490)

Provides for the deappropriation of funds due to savings achieved in this program.

Reader and Information Services - Library

All Other (4,436)

Provides for the deappropriation of funds due to savings achieved in this program.

MAINE STATE LIBRARY TOTAL

(11,826) (3,490)

TRANSPORTATION, DEPARTMENT OF**Administration - Aeronautics**

All Other (4,895) (5,305)

Provides for the deappropriation of funds through the reduction in All Other costs.

Railroad Assistance Program

All Other (25,410)

Provides for the deappropriation of funds through the reduction in All Other costs.

DEPARTMENT OF TRANSPORTATION TOTAL

(30,305) (5,305)

SECTION
TOTAL APPROPRIATIONS (\$2,163,158) (\$865,404)

PART P

Sec. P-1. Department of Human Services; General Fund revenue. The Department of Human Services shall seek reimbursement of expenditures under Medicaid Title XIX, 42 United States Code, Sections 1396 to 1396v (1988), for Targeted Case Management for the Social Services - Regional program in the amount of \$1,600,000 in fiscal year 1995-96 and \$1,500,000 in fiscal year 1996-97 to be credited as General Fund undedicated revenue.

PART Q

Sec. Q-1. Working capital advance. The Department of Economic and Community Development shall return \$1,558,739 of the working capital advance authorized by Public Law 1993, chapter 471, section 5 to the General Fund no later than June 30, 1996.

PART R

Sec. R-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		
Office of the Commissioner - Administrative and Financial Services		
Personal Services	(\$5,134)	(\$5,362)
Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.		
Administration - Human Resources		
Personal Services	(2,633)	(2,696)
Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.		

Accounts and Control - Bureau of

Personal Services	(2,633)	(2,696)
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Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.

Budget - Bureau of the

Personal Services	(2,633)	(2,696)
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Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.

Employee Relations - Office of

Personal Services	(2,467)	(2,526)
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Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.

Public Improvements - Planning/Construction - Administration

Personal Services	(2,633)	(2,696)
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Provides for the deappropriation of funds related to the 3% salary increase for major policy-influencing positions.

Taxation - Bureau of

Personal Services	(2,814)	(2,882)
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Provides for the deappropriation of funds to reflect the reduction related to the 3% salary increase for major policy-influencing positions.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL

(20,947)	(21,554)
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AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**Administration - Agriculture**

Personal Services	(5,055)	(5,326)
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Provides for the deappropriation of funds from productivity savings from 3% salary increases for major policy-influencing positions.			Administration - Forestry		
Agricultural Production			Personal Services	(2,598)	(2,696)
Personal Services			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Provides for the deappropriation of funds from productivity savings from 3% salary increases for major policy-influencing positions.			Administrative Services - Conservation		
Public Services - Agriculture			Personal Services	(8,639)	(8,990)
Personal Services			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Provides for the deappropriation of funds from productivity savings from 3% salary increases for major policy-influencing positions.			Forest Fire Control - Division of		
Harness Racing Commission			Personal Services	(1,943)	(1,990)
Personal Services			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Provides for the deappropriation of funds from productivity savings from 3% salary increases for major policy-influencing positions.			Geological Survey		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL			Personal Services	(1,722)	(1,851)
			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
ATTORNEY GENERAL, DEPARTMENT OF THE Chief Medical Examiner - Office of			Land Use Regulation Commission		
Personal Services			Personal Services	(2,226)	(2,280)
Provides for the deappropriation of funds from savings accrued by not awarding a 3% salary increase for the Chief Medical Examiner position.			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
DEPARTMENT OF THE ATTORNEY GENERAL TOTAL			DEPARTMENT OF CONSERVATION TOTAL		
CONSERVATION, DEPARTMENT OF			CORRECTIONS, DEPARTMENT OF Administration - Corrections		
			Personal Services	(7,121)	(7,364)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			from budgeted 3% salary increases for major policy-influencing positions.		
DEPARTMENT OF CORRECTIONS			DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT		
TOTAL	<hr/> (7,121)	<hr/> (7,364)	TOTAL	<hr/> (2,527)	<hr/> (2,527)
DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF			EDUCATION, DEPARTMENT OF		
Administration - Defense and Veterans' Services			Administrative Office of the Commissioner		
Personal Services	(2,288)	(2,457)	Personal Services	(5,524)	
Provides for deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Administration - Maine Emergency Management Agency			Administrative Services Unit		
Personal Services	(2,121)	(2,172)	Personal Services	(1,793)	
Provides for deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Military Training and Operations			Leadership		
Personal Services	(1,839)	(1,978)	Personal Services		(7,493)
Provides for deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES			Management Information Systems		
TOTAL	<hr/> (6,248)	<hr/> (6,607)	Personal Services		(1,990)
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
Administration - Economic and Community Development			Division of Management Information		
Personal Services	(2,527)	(2,527)	Personal Services	(1,943)	
Provides for the deappropriation of funds			Provides for the deappropriation of funds budgeted for the 3%		

salary increase for major policy-influencing positions.			HUMAN RIGHTS COMMISSION, MAINE		
			Human Rights Commission - Regulation		
DEPARTMENT OF EDUCATION			Personal Services	(2,022)	(2,071)
TOTAL	(9,260)	(9,483)	Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.		
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			MAINE HUMAN RIGHTS COMMISSION		
Administration - Environmental Protection			TOTAL	(2,022)	(2,071)
Personal Services	(4,552)	(4,701)	HUMAN SERVICES, DEPARTMENT OF		
Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Administration - Human Services		
Air Quality Control			Personal Services	(2,992)	(3,064)
Personal Services	(2,243)	(2,409)	Provides for the deappropriation of funds due to productivity savings from 3% salary increases for major policy-influencing positions.		
Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Administration - Income Maintenance		
Land Quality Control			Personal Services	(2,422)	(2,480)
Personal Services	(2,224)	(2,388)	Provides for the deappropriation of funds due to productivity savings from 3% salary increases for major policy-influencing positions.		
Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Administration - Social Services		
DEPARTMENT OF ENVIRONMENTAL PROTECTION			Personal Services	(2,306)	(2,362)
TOTAL	(9,019)	(9,498)	Provides for the deappropriation of funds due to productivity savings from 3% salary increases for major policy-influencing positions.		
EXECUTIVE DEPARTMENT			Elder and Adult Services - Bureau of		
Planning Office			Personal Services	(2,110)	(2,161)
Personal Services	(2,764)	(2,831)	Provides for the deappropriation of funds due to productivity		
Provides for the deappropriation of funds through the elimination of the 3% salary increase budgeted for major policy-influencing positions.					
EXECUTIVE DEPARTMENT TOTAL	(2,764)	(2,831)			

savings from 3% salary increases for major policy-influencing positions.			Provides for the deappropriation of funds from budgeted 3% salary increases for major policy-influencing positions.		
Health - Bureau of					
Personal Services	(4,245)	(4,347)			
Provides for the deappropriation of funds due to productivity savings from 3% salary increases for major policy-influencing positions.			DEPARTMENT OF MARINE RESOURCES		
			TOTAL	(6,604)	(6,901)
			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
			Administration - Mental Health and Mental Retardation		
Health Planning and Development			Personal Services	(17,727)	(18,343)
Personal Services	(1,959)	(2,006)	Provides for the deappropriation of funds from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.		
Provides for the deappropriation of funds due to productivity savings from 3% salary increases for major policy-influencing positions.			Aroostook Residential Center		
			Personal Services	(2,022)	(2,071)
DEPARTMENT OF HUMAN SERVICES			Provides for the deappropriation of funds from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.		
TOTAL	(16,034)	(16,420)	Disproportionate Share - Augusta Mental Health Institute		
LABOR, DEPARTMENT OF			Personal Services	(3,177)	(3,254)
Administration - Bureau of Labor Standards			Provides for the deappropriation of funds from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.		
Personal Services	(1,722)	(1,851)	Disproportionate Share - Bangor Mental Health Institute		
Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.			Personal Services	(3,017)	(3,090)
DEPARTMENT OF LABOR			Provides for the deappropriation of funds from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.		
TOTAL	(1,722)	(1,851)	Elizabeth Levinson Center		
MARINE RESOURCES, DEPARTMENT OF			Personal Services	(2,022)	(2,071)
Administration - Marine Resources			Provides for the deappropriation of funds from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.		
Personal Services	(4,738)	(4,990)			
Provides for the deappropriation of funds from budgeted 3% salary increases for major policy-influencing positions.					
Marine Patrol - Bureau of					
Personal Services	(1,866)	(1,911)			

from the elimination of the October 1, 1990 salary increase for major policy-influencing positions.

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

(27,965) (28,829)

**PUBLIC SAFETY,
DEPARTMENT OF**

Criminal Justice Academy

Personal Services (1,468) (1,580)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.

Drug Enforcement Agency

Personal Services (2,292) (2,348)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.

Liquor Enforcement

Personal Services (1,728) (1,769)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.

State Police

Personal Services (1,468) (1,580)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.

**DEPARTMENT OF PUBLIC
SAFETY
TOTAL**

(6,956) (7,277)

**SECRETARY OF STATE,
DEPARTMENT OF THE**

Administration - Archives

Personal Services (1,987) (2,135)

Provides for the deappropriation of funds budgeted for the 3% salary increase for major policy-influencing positions.

**DEPARTMENT OF THE
SECRETARY OF STATE
TOTAL**

(1,987) (2,135)

**SECTION TOTAL
APPROPRIATIONS**

(\$153,189) (\$158,756)

PART S

Sec. S-1. 28-A MRSA §64, sub-§3, as amended by PL 1993, c. 6, Pt. B, §3, is further amended to read:

3. Authorized working capital. The maximum permanent working capital of the commission is established at ~~\$1,500,000~~ \$1,000,000 and permanent advances up to this amount may be authorized by the Governor upon recommendation of the commission with the approval of the Commissioner of Administrative and Financial Services. The permanent working capital of the commission may be supplemented by temporary loans from other state funds upon recommendation of the commission and by approval of the Commissioner of Administrative and Financial Services and the Governor.

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**

**Aid to Families with Dependent
Children**

All Other (\$33,000)

Provides for the deappropriation of funds for contracting legal services to appeal Supplemental Security Income decisions.

**Aid to Families with Dependent
Children**

All Other (\$1,918,284) (481,631)

Provides for the deappropriation of funds from the increase in child support collections and incentives.

Administration - Social Services

All Other	(524,700)	
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Provides for the deappropriation of funds for the Maine Automated Child Welfare Information System.

Departmentwide - TQM

All Other	(20,000)	
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Provides for the deappropriation of funds due to the elimination of a Total Quality Management training contract with the Department of Human Services training unit.

Elder and Adult Services - Bureau of

All Other	(15,000)	(15,000)
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Provides for the deappropriation of funds through standardization of visitor and guardian ad litem fees for public guardianship.

Health - Bureau of

All Other	(30,000)	(30,000)
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Provides for the deappropriation of funds to eliminate rollover of contract funds.

Health - Bureau of

All Other	(40,000)	(80,000)
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Provides for the deappropriation of funds for tuberculosis treatment cost reduction.

Social Services - Regional

All Other	(64,409)	(149,287)
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Provides for the deappropriation of funds due to anticipated revenues in the Other Special Revenue account.

DEPARTMENT OF HUMAN SERVICES

TOTAL	<u>(\$2,087,693)</u>	<u>(\$1,313,618)</u>
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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****Aid to Families with Dependent Children**

All Other	(\$56,967)
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Provides for the deallocation of funds for contracting legal services to appeal Supplemental Security Income decisions.

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

1995-96 1996-97**HUMAN SERVICES, DEPARTMENT OF****Administration - Social Services**

All Other	\$524,700
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Provides for the allocation of funds for the Maine Automated Child Welfare Information System.

Aid to Families with Dependent Children

All Other	\$1,918,284	481,631
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Provides for the allocation of funds from the increase in child support collections and incentives.

Social Services - Regional

All Other	64,409	149,287
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Provides for the allocation of funds from anticipated special revenues.

DEPARTMENT OF HUMAN SERVICES

TOTAL	<u>\$1,982,693</u>	<u>\$1,155,618</u>
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Sec. T-4. Authorization to expend funds. The Department of Human Services is authorized to expend up to \$31,000 from the General Assistance Reimbursement to Cities and Towns account and \$11,000 from the Aid to Families with Dependent Children account in fiscal year 1996-97 for the purpose of reimbursing for legal work done to assist

state residents who, prior to the legal work, had been receiving general assistance or Aid to Families with Dependent Children benefits to become qualified to receive federally funded disability benefits.

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

Effective March 25, 1996, unless otherwise indicated.

CHAPTER 561

S.P. 38 - L.D. 68

An Act to Make Available Coverage for Mental Health Services Provided by Counseling Professionals Who Are Licensed to Assess and Treat Intrapersonal and Interpersonal Problems

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

Sec. 1. 24 MRSA §2303, sub-§5 is enacted to read:

5. Mental health services provided by counseling professionals. A nonprofit hospital or medical service organization that issues individual or group health care contracts providing coverage for mental health services shall offer coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a masters degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this subsection may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 2. 24-A MRSA §2744, sub-§3 is enacted to read:

3. Mental health services provided by counseling professionals. An insurer that issues individual health care contracts providing coverage for mental health services shall offer coverage for those

services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a masters degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. 3. 24-A MRSA §2835, sub-§3 is enacted to read:

3. Mental health services provided by counseling professionals. An insurer that issues group health care contracts providing coverage for mental health services shall make available coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a masters degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 562

H.P. 952 - L.D. 1341

An Act to Limit the Use of Certificates of Participation

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

Sec. 1. 5 MRSA §1588, sub-§1, as enacted by PL 1993, c. 92, §8, is amended to read:

1. Authority of Department of Administrative and Financial Services; central records. The Department of Administrative and Financial Services may develop, negotiate and administer master lease-purchase financing programs, in accordance with the provisions of section 1587, to facilitate advantageous lease-purchase terms and economies of scale. Upon final legislative approval of agency lease-purchase proposals, state agencies, except for programs supported by the Highway Fund or the Federal Expenditure Fund in the Department of Transportation, shall participate in the Department of Administrative and Financial Services master lease-purchase program, unless participation is not feasible. The Department of Administrative and Financial Services, in conjunction with the relevant state agency, may negotiate and execute lease-purchase or financial contracts on behalf of the State. These master lease-purchase financing agreements may include the refinancing or consolidation of any state agency lease-purchase agreements. The Department of Administrative and Financial Services shall maintain central records on each lease-purchase financing agreement and each master lease-purchase program the department administers on behalf of a benefiting department or agency.

Sec. 2. 5 MRSA §1811, sub-§5, as amended by PL 1993, c. 707, Pt. G, §6, is further amended to read:

5. Storerooms. To establish and operate, with the approval of the Commissioner of Administrative and Financial Services, storerooms ~~which that~~, in the judgment of the Director of the Bureau of General Services, are determined necessary for the storage and distribution of supplies, materials and equipment by resale, rental or other method, required for use by the State Government or any department or agency, or any political subdivision or school administrative unit. ~~Notwithstanding~~ In accordance with section 1587, the Director of the Bureau of General Services may purchase, lease, lease-purchase or enter into other financing agreements for the acquisition of equipment in accordance with this subsection when it can be demonstrated that any such action or agreement provides a clear cost advantage to the State. ~~All contracts, terms, terms of financing and other terms related to any financing agreement reached are subject to the review of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs;~~

Sec. 3. 5 MRSA §1811, sub-§9, ¶A, as amended by PL 1991, c. 780, Pt. Y, §66, is further amended to read:

A. The Bureau of General Services shall work closely with all departments and agencies to identify annual transportation and vehicle usage

requirements to ensure that agency program requirements are met to the maximum extent possible. The bureau shall:

- (1) Maintain the Central Motor Pool to service the transportation requirements of all state agencies not exempted under paragraph B, subparagraph (3) and their employees and control assignments of vehicles to ensure they are used to the best economic advantage of the State;
- (2) Maintain records of transportation and vehicle requirements and all motor vehicles owned, leased and available for use for those agencies not exempted under paragraph B, subparagraph (3) and make this information available to state agencies;
- (3) Require all state agencies not exempted under paragraph B, subparagraph (3) and their employees to use the Central Motor Pool when transportation is required. Employees requesting to use personal vehicles on state business are required to seek an exemption from the Central Motor Pool;
- (4) Acquire or replace Central Motor Pool vehicles in accordance with an established vehicle replacement policy;
- (5) Transfer motor vehicles from other agencies, purchase, lease, lease-purchase or enter into other financing agreements, in accordance with section 1587, for the acquisition or replacement of motor vehicles in accordance with paragraph B when it can be demonstrated that any such action or agreement provides a clear cost or program advantage to the State;
- (6) Establish facilities to store and maintain motor vehicles; and
- (7) Devise a mechanism for the distribution of fuel by competitive bidding by commercial vendor, by the use of existing state-owned fueling facilities, and the establishment of a statewide credit card system.

See title page for effective date.

CHAPTER 563

S.P. 610 - L.D. 1614

**An Act to Amend the Law as It
Pertains to Payment of Rent by a
Blind or Visually Impaired
Individual Who Operates a Vending
Facility**

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

Sec. 1. 20-A MRSA §18081, as amended by PL 1995, c. 322, §20, is repealed and the following enacted in its place:

§18081. Fees

1. Fees prohibited generally. Except as provided in subsection 2, a rental fee may not be required or received for the granting of authority to the division to operate a vending facility.

2. Fees authorized; limitation. A rental fee or other fee may be charged to the operator only if the vending facility is located on commercial municipal property, including a public airport, where the following conditions are met:

A. The vending facility generates revenue primarily from the general public at large rather than from public employees;

B. The vending facility occupies space for which there are other competing retail commercial uses and other retail users are, in fact, renting nearby public space on the property; and

C. The public owner depends on generating revenue from the space occupied by the vending facility.

Any rent or other fee charged to the operator must be less than what would otherwise be charged to a competing commercial tenant and must be pursuant to a written agreement. The terms of the agreement must adequately account for the value of investments made by the division to create or maintain the vending facility.

3. Application. This section applies to the rental of vending facilities and the renewal of any rental agreement after the effective date of this section.

See title page for effective date.

CHAPTER 564

H.P. 1221 - L.D. 1671

**An Act to Amend the Laws
Regarding the Revolving Loan Fund
for Wastewater Facilities**

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

Whereas, this legislation makes funding available to municipalities to remediate landfills that are a threat to groundwater and for certain other activities related to water quality; and

Whereas, funding for these projects may be needed during the upcoming spring 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. 30-A MRSA §5953-A, sub-§1, as amended by PL 1991, c. 605, §5, is repealed and the following enacted in its place:

1. Loan application. A municipality may apply for a loan from the revolving loan fund, the proceeds of which must be used for the following:

A. To acquire, design, plan, construct, enlarge, repair or improve a publicly owned sewage or water system or sewage or water treatment plant or to implement a related management program;

B. To remediate municipal landfills that affect groundwater; or

C. For any actions authorized under the federal Clean Water Act, 33 United States Code, Sections 1251 to 1387.

The bank may prescribe any application form or procedure required of a municipality for a loan under this section. The application must include any information that the bank determines necessary for the purpose of implementing this section and section 6006-A.

Sec. 2. 30-A MRSA §6006-A, sub-§1, ¶A, as enacted by PL 1989, c. 48, §§27 and 31, is repealed and the following enacted in its place:

A. There is established in the custody of the bank a special fund, to be known as the revolving loan fund, that must be used for the following purposes:

(1) To provide loans to municipalities for acquiring, designing, planning, constructing, enlarging, repairing or improving publicly owned sewage systems and sewage treatment plants as provided in Title 38, section 411 and for implementing related management programs;

(2) For remediation of municipal landfills that affect groundwater; or

(3) For any actions authorized under the federal Clean Water Act, 33 United States Code, Sections 1251 to 1387.

Sec. 3. 30-A MRSA §6006-A, sub-§3, ¶E, as enacted by PL 1989, c. 48, §§27 and 31, is amended to read:

E. Facility needs, including the availability of, or likely development of, cost-effective privately owned facilities or services to meet the municipal need; and

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

Effective March 25, 1996.

CHAPTER 565

H.P. 1237 - L.D. 1697

An Act to Amend the Unorganized Territory Tax Laws

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

Sec. 1. 36 MRSA §1603, as corrected by RR 1993, c. 1, §107, is amended to read:

§1603. Definition of "municipal cost component"

1. Definition. For the purposes of this chapter, "municipal cost component" means the cost of funding services in the Unorganized Territory Tax District ~~which that~~ would not be borne by the State if the Unorganized Territory Tax District were a municipality, but does not include a state cost allocation charge, including, without limitation, reimbursement to the General Fund for departmental functions such as accounting, personnel administration and supervision.

The "municipal cost component" ~~shall include~~ includes, but ~~is not~~ is limited to:

A. The cost of education, as would be determined by the Maine School Finance Act of ~~1985~~ 1995 if the unorganized territory were a municipality;

B. The cost of services the state funds in the unorganized territory that are funded locally by a municipality; the cost of forest fire protection to be included in the cost component ~~shall~~ must be determined in accordance with Title 12, section 9205-A and collected in the same manner as other portions of the municipal cost component; and

C. The cost of reimbursement by the State for services a county provides to the unorganized territory in accordance with Title 30-A, chapter 305. No county may be reimbursed for services provided on or after January 1, 1979, unless a legislative allocation is obtained pursuant to this chapter.

See title page for effective date.

CHAPTER 566

H.P. 1245 - L.D. 1707

An Act to Clarify the Landowner Liability Laws

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

Sec. 1. 14 MRSA §159-A, as amended by PL 1993, c. 622, §1, is further amended to read:

§159-A. Limited liability for recreational or harvesting activities

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

A. "Premises" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands.

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking,

swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational or harvesting activities" does not include commercial agricultural or timber harvesting.

2. Limited duty. An owner, lessee, manager, holder of an easement or occupant of premises does not have a duty of care to keep the premises safe for entry or use by others for recreational or harvesting activities or to give warning of any hazardous condition, use, structure or activity on these premises to persons entering for those purposes. This subsection applies regardless of whether the owner, lessee, manager, holder of an easement or occupant has given permission to another to pursue recreational or harvesting activities on the premises.

3. Permissive use. An owner, lessee, manager, holder of an easement or occupant who gives permission to another to pursue recreational or harvesting activities on the premises does not thereby:

- A. Extend any assurance that the premises are safe for those purposes;
- B. Make the person to whom permission is granted an invitee or licensee to whom a duty of care is owed; or
- C. Assume responsibility or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

4. Limitations on section. This section does not limit the liability that would otherwise exist:

- A. For a willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity;
- B. For an injury suffered in any case where permission to pursue any recreational or harvesting activities was granted for a consideration other than the consideration, if any, paid to the following:
 - (1) The landowner or the landowner's agent by the State; or
 - (2) The landowner or the landowner's agent for use of the premises on which the injury was suffered, provided that as long as the premises are not used primarily for commercial recreational purposes and that as long as the user has not been granted the exclusive right to make use of the premises for recreational activities; or

C. For an injury caused, by acts of persons to whom permission to pursue any recreational or harvesting activities was granted, to other persons to whom the person granting permission, or the owner, lessee, manager, holder of an easement or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

5. No duty created. Nothing in this section creates a duty of care or ground of liability for injury to a person or property.

6. Costs and fees. The court shall award any direct legal costs, including reasonable attorneys' fees, to an owner, lessee, manager, holder of an easement or occupant who is found not to be liable for injury to a person or property pursuant to this section.

See title page for effective date.

CHAPTER 567

S.P. 667 - L.D. 1727

An Act Concerning Special Licenses in the Department of Marine Resources

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

Sec. 1. 12 MRSA §6074, first ¶, as amended by PL 1989, c. 204, §1, is further amended to read:

~~The commissioner may, with the advice and consent of the advisory council, issue a special license for research, aquaculture or education, which that exempts the holder from one or more marine resources' laws as to the time, place, length, condition, amount and manner of taking or possessing any a marine organism. Special licenses issued by the commissioner to employees of the department when they are acting in their capacity as employees under the direction of the commissioner or the commissioner's designated representative do not require the advice and consent of the advisory council. Except as provided in subsection 8, the commissioner may not issue a special license unless the application for that license is approved by the advisory council.~~

Sec. 2. 12 MRSA §6074, sub-§8 is enacted to read:

8. Council approval not required. Approval by the advisory council is not required for a special license issued by the commissioner to the following:

- A. An employee of the department when the employee is acting under the direction of the

commissioner or the commissioner's designated representative;

B. A person who operates an aquarium;

C. A person who operates a festival;

D. A person who undertakes a public service activity; or

E. A municipality that operates a hydraulic or mechanical soft-shell clam dredge for municipal transplanting projects under section 6623.

See title page for effective date.

CHAPTER 568

S.P. 673 - L.D. 1733

An Act to Clarify Certain Provisions of Law Pertaining to Lobster Management

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

Whereas, lobster fishing is essential to the culture and economy of Maine's coastal communities; and

Whereas, the State's lobster laws need amending to enable participants in the lobster fishery to obtain licenses in 1996; and

Whereas, certain provisions of the State's lobster laws are in need of clarification; 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 §6421, as amended by PL 1995, c. 468, §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, Class III, ~~Class IV or apprentice~~, student or noncommercial 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, Class III, ~~Class IV~~ apprentice 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.

2-A. Licensed activity; noncommercial license. The holder of a noncommercial lobster and crab fishing license may fish for, take, possess, ship or transport within the State lobsters or crabs the license holder has taken. The license does not authorize the license holder to sell lobsters or to remove lobster meat from the shell or to take, possess, transport or ship lobster parts or meat.

3-A. License limitation. A license authorizes activities by individuals as follows.

A. A Class I license authorizes the licensed activities under subsection 2 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 under subsection 2. 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 under subsection 2. 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~~ An apprentice lobster and crab fishing license authorizes the apprentice so licensed to engage in the licensed activities under subsection 2 on that apprentice's sponsor's vessel when the apprentice's sponsor is on board the vessel. ~~A Class IV license holder person who holds an apprentice lobster and crab fishing license~~ may not tend any traps unless the traps are fished by the sponsor of the apprentice so licensed. For the purpose of this paragraph, "apprentice's sponsor" means a person who holds a Class I, Class II or Class III lobster and crab fishing license issued under this section.

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

under subsection 2. A person issued a student license may not submerge at any one time more than 150 lobster traps in the coastal waters of the State.

F. A noncommercial lobster and crab fishing license authorizes the license holder to engage in the licensed activities under subsection 2-A. A person issued a noncommercial lobster and crab fishing license may not submerge at any one time more than 5 lobster traps in the coastal waters of the State.

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, Class III, ~~Class IV~~ apprentice, noncommercial 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 Documents to the commissioner that the person harvested lobsters in calendar year 1993, calendar year 1994 or at any time between January 1, 1995 and September 30, 1995 while in possession of a Class I, Class II or Class III license issued to that person under this section;

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 at any time between January 1, 1995 and ~~March 31~~ September 30, 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 from~~ January 1, 1993 ~~and March 31~~ to September 30, 1995;

E. Documents to the commissioner that the person made a substantial investment at any time between January 1, 1993 and ~~April~~ September

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-; or

G. Documents to the commissioner that the person obtained practical lobster fishing experience as a sternman employed by the holder of a Class I, Class II or Class III license issued under this section during one of the following time periods:

(1) At any time between January 1, 1995 and October 1, 1995 and during any part of any calendar year prior to calendar year 1995; or

(2) During any part of any 2 calendar years prior to calendar year 1995.

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. For the purposes of this subsection, "full-time student" means "student" as defined in Title 39-A, section 102, subsection 8, paragraph C.

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;

D. Two hundred seventy-nine dollars for a Class III license;

E. Forty-six dollars for ~~a Class IV~~ an apprentice lobster and crab fishing license for applicants under 18 years of age;

F. Ninety-three dollars for ~~a Class IV~~ an apprentice lobster and crab fishing license for applicants 18 years of age or older; ~~and~~

G. Forty-six dollars for a student lobster and crab fishing license-; and

H. Forty-six dollars for a noncommercial lobster and crab fishing license.

8. Exception. The fee for a Class I or ~~a Class IV an apprentice lobster and crab fishing~~ license for applicants 70 years of age or older is \$46.

Sec. 2. 12 MRSA §6422, sub-§§1 and 4, as enacted by PL 1995, c. 468, §4, are amended to read:

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 an apprentice lobster and crab fishing~~ license under section 6421 to ~~participate in~~ enter the program.

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 before that person enters the apprentice program~~ 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.~~

D. Documents to the commissioner that the person harvested lobster while in possession of a license issued to that person under section 6421.

Sec. 3. 12 MRSA §6431-D, sub-§2, ¶¶A and B, as enacted by PL 1995, c. 468, §5, are amended to read:

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 1994 and 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~~ harvest lobsters from the boat as long as the total number of traps fished from the boat does not exceed 1,200.

Sec. 4. 12 MRSA §6446, sub-§2, as enacted by PL 1995, c. 468, §8, is repealed and the following enacted in its place:

2. Rules for zones. The commissioner may adopt rules for a zone established under subsection 1 that place limits on lobster and crab fishing license holders who fish in that zone regarding the number of lobster traps fished and the time periods allowed for complying with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur only when the rules were proposed by the lobster management policy council established for that zone pursuant to section 6447, subsection 1 and the proposed rules were approved in a referendum pursuant to section 6447, subsection 6. The commissioner may accept the rules proposed by a

lobster management policy council as reasonable and adopt those rules or reject the council's proposed rules as unreasonable. The rules adopted under this subsection by the commissioner must accurately reflect the intent of the rules proposed by a lobster management policy council but are not required to be a verbatim rendition of the proposed rules.

Sec. 5. 12 MRSA §6446, sub-§4, as enacted by PL 1995, c. 468, §8, is amended to read:

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~~ Except as provided in subsection 6, the commissioner shall comply with all other provisions of Title 5, chapter 375 when adopting rules under subsection 2.

Sec. 6. 12 MRSA §6446, sub-6 is enacted to read:

6. Petition for rule prohibited. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule for a lobster management zone established under this section that regulates the number of lobster traps fished and the time periods allowed for complying with that number, the number of lobster traps allowed on a trawl and the time of day when lobster fishing may occur.

Sec. 7. 12 MRSA §6447, sub-§§5 and 6, as enacted by PL 1995, c. 468, §8, are amended to read:

5. Council authority. Upon approval in a referendum under subsection 6, a lobster management policy council may propose to the commissioner ~~regulations rules~~ 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 equal to or stricter than the limitations under section 6431-A, ~~6431-D~~, 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 rules~~ to referendum in the zone in which the ~~regulations rules~~ would apply before submitting those proposed ~~regulations rules~~ to the commissioner. A lobster management policy council may submit proposed ~~regulations rules~~ to the commissioner if the

proposed ~~regulations rules~~ are approved by 2/3 of those voting in the referendum.

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

Effective March 26, 1996.

CHAPTER 569

H.P. 1281 - L.D. 1760

An Act to Amend the Definition of "State Agency Client"

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

Sec. 1. 20-A MRSA §1, sub-§34-A, as amended by PL 1993, c. 410, Pt. CCC, §7, is further amended to read:

34-A. State agency client. "State agency client" means a child of eligible school age who is:

- A. In the care or custody, or both, of the Department of Human Services, the Department of Mental Health and Mental Retardation or the Department of Corrections;
- B. Placed, with the recommendation of a Division of Mental Retardation case manager or an employee of the Bureau of Children with Special Needs, Department of Mental Health and Mental Retardation, with a person who is not the child's parent, legal guardian or relative;
- C. On entrustment or absent-with-leave status from the Maine Youth Center; or
- D. Attending a public or private school while still a resident of a state-operated institution.

Notwithstanding paragraphs A to D, a "state agency client" may in addition be either a child who is under 3 years of age and has a diagnosed, established condition or a biological factor that has a high probability of resulting in developmental delay or a child who is under 6 years of age and in need of early intervention of special education services due to a delay in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development.

See title page for effective date.

CHAPTER 570

S.P. 692 - L.D. 1762

**An Act to Further Streamline
Licensing Procedures at the Bureau
of Insurance**

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

Whereas, the Federal Social Security Act of 1994 requires amendments to the State's laws with respect to the sale of Medicare supplement policies; and

Whereas, the required amendments to the State's laws must be enacted prior to April 28, 1996; and

Whereas, failure to enact these provisions will result in the State's loss of regulatory authority over the sale of Medicare supplement policies; and

Whereas, if this legislation is not enacted as an emergency, Medicare supplement policies may not be sold in this State until the United States Secretary of Health and Human Services certifies that the policies meet federal standards; 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 §413, sub-§5-A, as enacted by PL 1985, c. 330, §4, is amended to read:

5-A. A copy of a current report of examination of the insurer certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States, if an alien insurer. For ~~purpose~~ purposes of this requirement, a report of examination ~~shall be~~ is deemed "current" only if its date of account is within ~~24~~ 36 months of filing of the application, except that the superintendent may, in ~~his~~ the superintendent's discretion, accept a report of examination within a period reasonably proximate to ~~24~~ 36 months from its date of account ~~which that~~ is filed by the applicant promptly upon its receipt ~~where~~ when issuance of the report by the domiciliary regulator has been delayed for reasons beyond the control of the applicant and ~~which that~~ are unrelated to the applicant's financial condition or its compliance with applicable laws;

Sec. 2. 24-A MRSA §419, sub-§1, as amended by PL 1983, c. 419, §5, is further amended to read:

1. The suspension of an insurer's certificate of authority ~~shall must~~ be for such period as the superintendent specifies in the order of suspension, ~~but not to exceed one year.~~ During the suspension period, the superintendent may rescind or shorten the suspension period by further order. The superintendent may reinstate the insurer's certificate of authority upon written request of the insurer if the superintendent finds that the causes of the suspension are no longer continuing and that the insurer is otherwise in compliance with the requirements of this Title.

Sec. 3. 24-A MRSA §1518, sub-§1-A is enacted to read:

1-A. Written application must be filed for reinstatement of an inactive license. The application must include an appointment form and the appropriate fee, a reinstatement application and application fee and, if applicable, a license issuance fee.

Sec. 4. 24-A MRSA §1521, sub-§1, as amended by PL 1993, c. 153, §11, is further amended to read:

1. An applicant for license covering the same kind or kinds of insurance for which the applicant was licensed under a similar license in this State, other than a temporary license issued pursuant to section 1536, within ~~one year~~ 2 years next preceding the date of application for the license, ~~provided that~~ if the licensee has met the applicable continuing education requirements during the period, unless the previous license was revoked, suspended or continuation of the license was refused by the superintendent, and if the superintendent considers the applicant to be fully qualified for the license. For the purposes of this subsection, an agent's license covering fire insurance and existing on January 1, 1970 is the equivalent of a license covering "property" insurance as defined in this Title;

Sec. 5. 24-A MRSA §1532-A, sub-§7, as amended by PL 1993, c. 153, §14, is further amended to read:

7. Resident agent and resident agent organization licenses are valid until 12:01 a.m. on October 1st of even-numbered years, unless prior to that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Nonresident agent and nonresident agent organization licenses are valid until 12:01 a.m. on February 1st of odd-

numbered years unless before that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments of an agent or agents of authorized insurers that collectively cover all the kinds of insurance included in the agent's license. Upon termination of all the licensee's appointments, as to a particular kind of insurance, ~~and failure to replace those appointments within 60 days thereafter, the license terminates as to those kinds of insurance and the licensee shall promptly deliver the license to the superintendent for reissuance, without fee or charge, as to these kinds of insurance, if any, covered by the remaining appointments~~ the agent's authority to sell that kind of insurance terminates and the agent is prohibited from selling that kind of insurance until the appointment is replaced. The insurer must verify in its cancellation of an appointment filed with the superintendent pursuant to section 1535, subsection 2 that the agent has been notified of the loss of authority to represent the insurer. A new license for the kinds of insurance covered by the remaining authorities will be issued at the time of renewal. Upon termination of all the licensee's appointments, the license terminates and the agent is prohibited from selling any kind of insurance until the agent files an application for reinstatement pursuant to section 1518 and either:

A. A new license is issued; or

B. The agent receives notification from an insurer pursuant to section 1533 that a new appointment is in effect with the superintendent.

Insurers are prohibited from accepting business from an agent who does not have a valid appointment on file with the superintendent. The agent's license is considered inactive for a period of 2 years from the date of the loss of the last appointment.

Sec. 6. 24-A MRSA §1533, sub-§1, as amended by PL 1993, c. 637, §23, is further amended to read:

1. Each insurer appointing an agent in this State shall file with the superintendent the appointment in writing, specifying the kinds of insurance or annuity business to be transacted by the agent for the insurer, and pay the appointment fee at the rate specified in section 601. The insurer shall pay the full appointment fee without regard to the effective date of the appointment. An agent who qualifies to be licensed to sell variable annuity contracts pursuant to section 1520 must be separately appointed as to variable annuities and the insurer shall pay a separate appointment fee for the appointment. Once the superintendent has processed the appointment and notified the insurer that the appointment is in effect, the insurer must notify its agent of the effective date

of the appointment authorization. The superintendent is not required to send a confirmation of appointment to the agent.

Sec. 7. 24-A MRSA §2736-C, sub-§9 is enacted to read:

9. Exemption for certain associations. The superintendent may exempt a group health insurance policy or group nonprofit hospital or medical service corporation contract issued to an association group, organized pursuant to section 2805-A, from the requirements of subsection 3, paragraph A; subsection 6, paragraph A; and subsection 8 if:

A. Issuance and renewal of coverage under the policy or contract is guaranteed to all members of the association who are residents of this State and to their dependents;

B. Rates for the association comply with the premium rate requirements of subsection 2 or are established on a nationwide basis and substantially comply with the purposes of this section, except that exempted associations may be rated separately from the carrier's other individual health plans, if any;

C. The group's anticipated loss ratio, as defined in subsection 5, is at least 75%;

D. The association's membership criteria do not include age, health status, medical utilization history or any other factor with a similar purpose or effect;

E. The association's group health plan is not marketed to the general public;

F. The association does not allow insurance agents or brokers to market association memberships, accept applications for memberships or enroll members, except when the association is an association of insurance agents or brokers organized under section 2805-A;

G. Insurance is provided as an incidental benefit of association membership and the primary purposes of the association do not include group buying or mass marketing of insurance or other goods and services; and

H. Granting an exemption to the association does not conflict with the purposes of this section.

Sec. 8. 24-A MRSA §5013, as amended by PL 1993, c. 154, §4, is further amended to read:

§5013. Notice regarding policies that are not Medicare supplement policies

Any individual accident and sickness insurance policy or group insurance certificate, including the contract of a nonprofit hospital and medical service or health care plan issued for delivery in this State to persons eligible for Medicare ~~by reason of age~~, must notify insureds that the policy or certificate is not a Medicare supplement policy or certificate. The notice must be either printed on or attached to the first page of the outline of coverage delivered to insureds; or, if no outline of coverage is delivered, to the first page of the policy or certificate. The notice must be in no less than 12-point type and must contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company. If you have a Medicare supplement policy or major medical policy, this coverage may be more than you need. For information call the Bureau of Insurance at (toll-free phone number)."

This section does not apply to a Medicare supplement policy; a policy issued pursuant to a contract under the Federal Social Security Act, 42 United States Code, Section 1395, et seq., Section ~~1833 or~~ 1876; a disability income policy; ~~a single premium nonrenewable policy~~; or a policy identified in section 5001-A, subsection 2.

Sec. 9. 24-A MRSA §5014 is enacted to read:

§5014. Additional penalties

1. Penalties. In addition to any other applicable penalties for violations of this Title or Title 24, the superintendent may order issuers violating any provision of this chapter or any rule adopted pursuant to this chapter to:

A. Comply with the provisions of this chapter;
or

B. Cease marketing any Medicare supplement policy or certificate in this State that is directly or indirectly related to a violation.

2. Election of penalty options. The superintendent may exercise any of the penalty options provided by this section, in combination or in sequence, as the superintendent considers appropriate.

Sec. 10. 24-A MRSA §6305, sub-§2, as enacted by PL 1989, c. 931, §5, is amended to read:

2. Final evaluation of savings. The final evaluation of the savings in professional liability

insurance claims and claim settlement costs to insurers must be determined by the superintendent ~~in 1995 as part of the report filed on or before December 1, 2000 under Title 24, section 2978, subsection 2.~~ Insurers shall continue to assess policyholders after ~~1995~~ 2000 based on the final determination, but the total assessment may not be more than \$500,000 per year.

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

Effective March 26, 1996.

CHAPTER 571**S.P. 335 - L.D. 916****An Act to Improve the Function of the Maine Health Security Act**

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

Sec. 1. 24 MRSA §2853, sub-§4, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

4. Filing of records; time for hearing; extensions. Within 20 days of entry of appearance, the person or persons accused shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination of the panel and for completing discovery. If the parties are unable to agree on a timetable within 60 days of the entry of appearance, the claimant shall notify the chairman chair of the panel. The chairman chair shall then establish a timetable for the filing of all relevant records and reasonable discovery, which ~~shall must~~ be filed at least 30 days before any hearing date. The hearing ~~shall may~~ not be later than ~~120 days~~ 6 months from the service of the notice of claim upon the clerk, except when the time period has been extended by the panel chair in accordance with this subchapter.

See title page for effective date.

CHAPTER 572**S.P. 528 - L.D. 1445****An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning**

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

Whereas, the current cap on damages resulting from lead poisoning will be repealed on April 15, 1996 if no action is taken by the Legislature; and

Whereas, there will be no cap on damages resulting from lead poisoning if the Legislature does not take emergency action; and

Whereas, the continuation of a cap will help ensure the availability of insurance for property owners; 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 §1324-A, sub-§§3 and 4, as enacted by PL 1995, c. 453, §17, are amended to read:

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~~ \$600,000 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~~ October 1, 1999.

Sec. 2. Task force established. The Task Force on Lead Poisoning Liability and Insurance, referred to in this Act as the "task force," is established to make recommendations to ensure the availability of insurance coverage for property owners and assist property owners in reducing environmental lead hazards.

1. Membership. The task force consists of the following 13 members:

A. The Superintendent of Insurance or the superintendent's designee, who shall serve as chair;

B. A representative of the Department of Human Services familiar with lead paint issues, designated by the Commissioner of Human Services;

C. Two Legislators, one appointed by the President of the Senate and one appointed by the Speaker of the House; and

D. Nine public members appointed by the Governor. The public members must have a demonstrated expertise or interest in lead-poisoning prevention and represent one of each of the following categories:

- (1) Multifamily property owners;
- (2) Community groups;
- (3) Insurance agents;
- (4) Insurance companies;
- (5) Lead abatement and inspection professionals;
- (6) Parents of lead-poisoned children;
- (7) Attorneys representing lead-poisoned children;
- (8) Local government health officials; and
- (9) Lending institutions or banks.

2. Appointments. All appointments must be made no later than 60 days following the effective date of this Act. The appointing authorities shall notify the Superintendent of Insurance upon making their appointments. When the appointment of all members is complete, the superintendent shall call the first meeting of the task force no later than September 15, 1996.

3. Meetings. The task force shall meet on at least a quarterly basis until its final report is submitted on November 1, 1998.

4. Study subject. The task force shall study the availability of insurance that provides coverage for lead poisoning to property owners in this State. In conducting its work, the task force shall study the following issues:

A. The availability of insurance coverage for property owners in both the admitted market and the surplus lines market;

B. The effect the current liability cap has had on the availability of insurance;

C. The appropriateness of continuing with a liability cap in light of the interests of the families of lead-poisoned children, the property owners and the State;

D. The feasibility of mechanisms to financially assist property owners in abating environmental lead, such as tax credits, loan funds, grants or other approaches; and

E. Other viable methods to encourage and fund lead-poisoning prevention programs throughout the State.

5. Staff assistance. The Bureau of Insurance shall provide clerical and technical assistance to the task force.

6. Compensation. Members of the task force serve without compensation and are not entitled to reimbursement for expenses.

7. Report. The task force shall submit its final report and any recommended legislation or other specific proposals to the joint standing committees of the Legislature having jurisdiction over judiciary and human resource matters and to the Executive Director of the Legislative Council by November 1, 1998. The Bureau of Insurance shall assist in preparing any legislation recommended by the task force.

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

Effective March 28, 1996.

CHAPTER 573

H.P. 1178 - L.D. 1610

An Act to Enhance Used Oil Recycling Capabilities

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

Sec. 1. 38 MRSA §1303-C, sub-§§2-A and 2-B are enacted to read:

2-A. Class I liquid. "Class I liquid" means any liquid having a flash point below 100° Fahrenheit.

2-B. Class II liquid. "Class II liquid" means any liquid having a flash point at or above 100° Fahrenheit and below 140° Fahrenheit.

Sec. 2. 38 MRSA §1303-C, sub-§§39-B and 39-C are enacted to read:

39-B. Used oil. "Used oil" means waste oil, as defined in subsection 42.

39-C. Used oil collection center. "Used oil collection center" means a site or facility where used oil is accepted from the public and collected or stored in an aboveground tank for recycling.

Sec. 3. 38 MRSA §1319-G, sub-§3 is enacted to read:

3. Waiver of reimbursement for registered used oil collection centers. Upon petition of the owner or operator of a registered used oil collection center, the commissioner may waive the right to reimbursement to the fund of costs incurred in the removal or abatement of up to 660 gallons of hazardous waste from that collection center if the commissioner finds that:

A. The registered used oil collection center is in compliance with the requirements contained in section 1319-Y and any rules adopted pursuant to section 1319-O, subsection 2, paragraph B;

B. The owner or operator of the registered used oil collection center:

(1) Did not mix the oil with hazardous waste; and

(2) Did not knowingly accept hazardous waste or oil mixed with hazardous waste; and

C. The commissioner has not granted any previous waivers of reimbursement for costs incurred in the removal or abatement of hazardous waste from the same registered used oil collection center pursuant to this subsection during the previous 12 months.

Notwithstanding this subsection, the commissioner may not grant waivers of reimbursement to the fund pursuant to this subsection that total more than \$10,000 in any one fiscal year.

Sec. 4. 38 MRSA §1319-O, sub-§2, ¶A, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §261, is further amended to read:

A. The board may adopt rules relating to the transportation, collection and storage of waste oil by waste oil dealers to protect public health, safety and welfare and the environment. The rules may include, without limitation, rules requiring licenses for waste oil dealers and the location of waste oil storage sites that are operated by waste oil dealers, evidence of financial capability and manifest systems for waste oil. A person licensed by the department to transport or handle hazardous waste is not required to obtain

a waste oil dealer's license, but the hazardous waste license must include any terms or conditions determined necessary by the department relating to the transportation or handling of waste oil; and

Sec. 5. 38 MRSA §1319-O, sub-§2, ¶B is enacted to read:

B. The board may adopt rules relating to the registration, design and operation of used oil collection centers for the purposes of section 1319-Y. Rules adopted pursuant to this paragraph are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.

Sec. 6. 38 MRSA §1319-Y is enacted to read:

§1319-Y. Requirements for used oil collection centers

Owners and operators of used oil collection centers who wish to register their used oil collection centers for the purposes of section 1319-G, subsection 3 must comply with the following requirements in addition to any other requirements that may be established in rules adopted pursuant to section 1319-O, subsection 2, paragraph B. Other used oil collection centers are not required to comply with the provisions of this section.

1. Registration. Registration of used oil collection centers is governed by this subsection.

A. The owner or operator of a used oil collection center shall register the center on a form provided by the department. The registration form must be sent by certified mail or hand-delivered to the department. The registration form must be accompanied by photographs of the used oil collection center that clearly show that the design requirements of subsection 2 have been met.

B. If the applicable requirements of this section have not been met, the department shall notify the owner or operator in writing no later than 30 days after the department receives the completed registration form and photographs. If the department has not notified the applicant within the 30-day period, the center is deemed to be registered.

C. The owner or operator of a used oil collection center shall file an amended registration form within 10 business days upon any change in the information provided on the initial registration form.

2. Design requirements. In order to qualify for the waiver of reimbursement under section 1319-G,

subsection 3, the following design requirements applicable to aboveground tanks used to collect or store used oil must be met.

A. Tanks that are located outdoors must be watertight, must be equipped with spill and overfill protection, must be secured to prevent the tank from tipping over and must either:

(1) Be double-walled; or

(2) Have an alternate means of impervious secondary containment that is watertight and has the capacity to hold a minimum of 110% of the contents of the tank, with a roof over both the tank and the secondary containment.

B. Tanks that are located inside a building must have rigid piping, must have a funnel that is rigidly attached, must be secured to prevent the tank from tipping over and must either:

(1) Be double-walled; or

(2) Have an alternate means of impervious secondary containment that has the capacity to hold a minimum of 50% of the contents of the tank.

C. Tanks must be constructed of fiberglass, steel or other nonporous material.

D. The total aggregate capacity of all used oil tanks at a used oil collection center may not exceed the greater of 660 gallons or the total aggregate capacity of the used oil tanks at that center on the effective date of this section.

E. Tanks must be located in a manner that permits them to be readily inspected for evidence of leaks.

F. Tanks may not be located where any leaks could drain into sewers, floor drains or storm water catch basins or in areas subject to floods.

G. Tanks must be maintained in good condition with no severe rusting, no apparent structural defects or deterioration and no visible leaks.

H. Tanks must be clearly labeled or marked with the words "Used Oil."

I. Tanks must be located so that they are not exposed to a spill or leak of a Class I or Class II liquid.

J. The installation of tanks must be in accordance with applicable local ordinances.

K. Tanks must be protected from vehicular traffic by location or protection with bollards or similar devices.

3. Operational requirements. In order to qualify for the waiver of reimbursement under section 1319-G, subsection 3, the owners and operators of used oil collection centers:

A. May accept no more than 20 gallons of used oil from any entity or individual in a 24-hour period;

B. Shall inspect each load of used oil by sight or scent before accepting the used oil for collection;

C. Shall keep the used oil collection tank locked at all times, except when used oil is being added or removed;

D. Shall supervise the addition of used oil to the tank;

E. Shall provide ongoing maintenance and repairs at the used oil collection center to avoid any environmental hazards such as spills, leaks, discharges, fires and explosions;

F. May offer used oil only to persons licensed with the department as waste oil transporters pursuant to section 1319-O, subsection 2, paragraph A;

G. Shall report to the Department of Public Safety within 2 hours of becoming aware of a discharge and immediately take action to contain and remove any discharges of used oil; and

H. Shall notify the department no later than 24 hours after discovery that used oil delivered to or collected at the center is a hazardous waste.

See title page for effective date.

CHAPTER 574

S.P. 678 - L.D. 1735

An Act to Clarify the Agency Rule-making Process

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

Sec. 1. 5 MRSA §8071, sub-§1, as enacted by PL 1995, c. 463, §2, is amended to read:

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that ~~are~~ is 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.

Sec. 2. 5 MRSA §8072, sub-§§2 and 3, as enacted by PL 1995, c. 463, §2, are amended to read:

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~~ immediately forward the materials to the Secretary of the Senate and the Clerk of the House for placement on the Advance Journal and Calendar and distribution to a committee as provided in this subsection. The secretary and clerk shall jointly suggest reference to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt. After floor action on referral of the rule to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related 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.

See title page for effective date.

CHAPTER 575

S.P. 730 - L.D. 1834

An Act to Amend the Laws Relating to Regulation of Wetlands

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

Sec. 1. 38 MRSA §480-Q, sub-§17, as enacted by PL 1995, c. 460, §6, is amended 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, as long as:~~

A. The activity does not occur in, on or over another protected natural resource;

B. A 25-foot setback from other protected natural resources is maintained and erosion control measures are used;

C. The activity is not located in a shoreland zone regulated by a municipality pursuant to chapter 3, subchapter I, article 2-B or in the wetland or water body protected by the shoreland zone;

D. The activity does not occur in a wetland normally consisting of or containing at least 20,000 square feet of open water, aquatic vegetation or emergent marsh vegetation, except for artificial ponds or impoundments;

E. The activity does not take place in a wetland containing or consisting of peat land dominated by shrubs, sedges and sphagnum moss; and

F. The entire activity constitutes a single, complete project.

An activity does not qualify for exemption under this subsection if that activity is part of a larger project, including a multiphase development, that does not

qualify as a whole project. Activities authorized or legally conducted prior to September 29, 1995 may not be considered in calculating the size of the alteration.

Sec. 2. 38 MRSA §480-Q, sub-§20 is enacted to read:

20. Constructed ponds. Alteration of legally created constructed ponds that are not considered part of a great pond, coastal wetland, river, stream or brook, as long as the constructed pond is not expanded beyond its original size.

Sec. 3. 38 MRSA §480-X, sub-§5, as enacted by PL 1995, c. 460, §7 and affected by §12, is amended to read:

5. Additional projects not eligible for Tier 2 review. An activity in freshwater wetlands containing a natural community that is imperiled ~~(S1)~~ (S2) or critically imperiled ~~(S2)~~ (S1), 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.

See title page for effective date.

CHAPTER 576

H.P. 244 - L.D. 346

An Act to Change the Maine Rule of Evidence That Currently Allows the Admission of Subsequent Remedial Measures as Evidence of Negligence

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

Sec. 1. 14 MRSA §1403 is enacted to read:

§1403. Admission of evidence

Notwithstanding any court rule to the contrary, when, after an event, measures are taken that, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This section does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control or feasibility of precautionary measures, if controverted, or impeachment.

Sec. 2. Application. This Act applies to causes of action in which the harm or injury occurred on or after the effective date of this Act.

See title page for effective date.

CHAPTER 577

H.P. 546 - L.D. 742

An Act Regarding Wrongful Death Actions

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

Sec. 1. 18-A MRSA §2-804, sub-§(b), as amended by PL 1991, c. 187, is further amended to read:

(b) Every such action must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, is for the exclusive benefit of the surviving spouse; if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them; if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106; if there is neither surviving spouse nor minor children. The jury may give such damages as it ~~deems~~ determines a fair and just compensation with reference to the pecuniary injuries resulting from ~~such~~ the death to the persons for whose benefit the action is brought; and in addition ~~thereto~~ shall give such damages as will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition ~~thereto~~ may give damages not exceeding \$75,000 \$150,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim, to the persons for whose benefit the action is brought, and in addition ~~thereto~~ may give punitive damages not exceeding \$75,000, provided that the action is commenced within 2 years after the decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in settlement must be distributed as provided in this subsection. No settlement on behalf of minor children is valid unless approved by the court, as provided in Title 14, section 1605.

See title page for effective date.

CHAPTER 578

H.P. 1208 - L.D. 1658

An Act to Encourage Tire Stockpile Abatement

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

Whereas, citizens and businesses of this State discard waste tires each year; and

Whereas, stockpiles of waste tires have accumulated throughout the State; and

Whereas, these stockpiles pose a tremendous potential threat to human health, public safety and the environment; and

Whereas, this legislation directs the State to reduce the size and number of tire stockpiles and to encourage the processing of tires for beneficial reuse; 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 §1316-G is enacted to read:

§1316-G. Tire stockpile abatement program

The State shall undertake a program to eliminate tire stockpiles. The program is under the direction of the department with assistance from other agencies including the State Planning Office, the Department of the Attorney General, the Maine State Police, the Maine National Guard and the Department of Corrections.

1. Tire stockpile abatement. The department shall, as available resources allow:

A. Estimate the number of tires that are stockpiled and that pose a significant risk to the environment or public health;

B. Develop a tire stockpile reduction priority plan based on environmental and public health risks;

C. Seek the cooperation and assistance of private and governmental landowners or tire

stockpile operators to reduce the size and number of tire stockpiles;

D. Assist tire stockpile owners and operators willing to cooperate within the law;

E. Utilize enforcement powers unilaterally or in conjunction with the Department of the Attorney General or the Maine State Police or other parties to abate health, safety and environmental risks posed by tire stockpiles when voluntary cooperation is not provided by landowners or operators;

F. Develop or cause to be developed site-specific tire stockpile abatement plans;

G. Give preference in implementing site-specific tire stockpile abatement activities to the processing of tires for removal and beneficial use while mitigating fire risk;

H. Educate the public and encourage use of tires based on consideration of environmental and public health impacts as well as market conditions;

I. Contract for services to reduce tire stockpiles and abate significant risk to the environment and public health at tire stockpile sites; and

J. Report to the Legislature regarding progress, adequacy of funding and any legislation needed to achieve reduction of tire stockpiles and beneficial reuse of tires.

2. Market development. The State Planning Office shall, as available resources allow, assist the department generally in implementation of subsection 1. The assistance may include, but is not limited to, encouraging the beneficial reuse of whole tires and processed tires inside or outside the State. The office may also make recommendations to the Legislature regarding legislation that would enhance the beneficial reuse of waste tires or processed tires.

3. Business retention and new technology. The Department of Economic and Community Development, as available resources allow, shall lead a cooperative effort involving the department, the State Planning Office and the Finance Authority of Maine to identify measures the State can take to provide a favorable environment for the retention of businesses assisting in the processing of waste tires. This cooperative effort must also provide for the introduction of viable new technologies to cost-effectively convert waste tires to commodities that can be utilized for beneficial reuse and for energy production.

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

Effective March 29, 1996.

CHAPTER 579

H.P. 1298 - L.D. 1781

An Act to Support Abatement of Uncontrolled Tire Stockpiles

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

Whereas, uncontrolled tire stockpiles pose a threat to the health and safety of residents of this State; and

Whereas, this Act contains mechanisms to prevent the formation of uncontrolled tire stockpiles and to control those that have already been formed; 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-BB, as renumbered by RR 1995, c. 1, §33, is repealed.

Sec. 2. 38 MRSA §1316-A, as amended by PL 1995, c. 314, §2, is further amended to read:

§1316-A. Investigation and enforcement

~~Upon investigation, if the commissioner finds that an uncontrolled tire stockpile exists, the commissioner may issue notice to the responsible party or parties and conduct an enforcement hearing in accordance with section 347-A, subsection 2 and issue an order directing the responsible party or parties to mitigate or eliminate the threatening or hazardous conditions posed by the uncontrolled tire stockpile.~~

~~Upon investigation, if the commissioner finds that an uncontrolled tire stockpile is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may issue an emergency order in accordance with section 347-A, subsection 3 directing~~

~~the responsible party or parties to take immediate action necessary to reduce or alleviate the danger.~~

If the commissioner finds upon investigation that an area or location where used motor vehicle tires are or were handled, stored or disposed of is not licensed or is in violation of the solid waste management rules relating to tires and presents a significant fire hazard or a threat to public health or safety or to the environment, the commissioner may designate that location as an uncontrolled tire stockpile and may issue an administrative order directing the responsible party or parties to mitigate or eliminate the threatening or hazardous conditions posed by the uncontrolled tire stockpile.

An administrative order issued under this section must contain findings of fact describing, insofar as possible, and with reasonable specificity, the site of the activity and the danger to public health or safety or to the environment.

Service of the commissioner's findings and an administrative order must be made by hand delivery by an authorized representative of the department or by certified mail, return receipt requested.

The person to whom the administrative order is directed shall comply immediately. That person may apply to the board for a hearing within 5 days after receipt of the administrative order. The hearing must be held by the board at the next regularly scheduled meeting following receipt of the application, but in no event later than 30 days after receipt of the application. The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn, and the department shall first establish the basis for the administrative order and for naming the person to whom the administrative order was directed. Within 7 days after the hearing, the board shall make findings of fact and shall continue, revoke or modify the administrative order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter VII.

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, first ¶, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

If a responsible party does not comply immediately with all conditions of an administrative order issued pursuant to sections 347-A, subsection 3 and section 1316-A or an administrative consent agreement issued pursuant to section 347-A,

subsection 4 or any court order, the commissioner may act to abate, clean up or mitigate the threat or hazard posed by an uncontrolled tire stockpile. The commissioner may:

Sec. 4. 38 MRSA §1316-B, sub-§2, as enacted by PL 1991, c. 517, Pt. A, §2, is amended to read:

2. Process and remove. ~~In consultation with the agency, cause~~ Cause the processing or removal of all stockpiled tires;

Sec. 5. 38 MRSA c. 13, sub-c. II-B is enacted to read:

SUBCHAPTER II-B

MANAGEMENT OF MOTOR VEHICLE TIRES

§1316-L. Management of motor vehicle tires

1. Disposal, storage and processing. A person may not dispose of, store or process, or cause to be disposed of, stored or processed, used motor vehicle tires at a site or facility in this State that:

A. Is an uncontrolled tire stockpile that is the subject of an administrative order of the commissioner pursuant to section 1316-A; or

B. Is unlicensed, unless the facility is exempt from licensing or otherwise authorized under state law to dispose of, store or process such tires.

2. Transfer to tire transporter. A person may not transfer custody or possession of scrap tires to any transporter if that person knows or has reason to believe the transporter:

A. Does not have a license or permit to transport scrap tires as required by department rules;

B. Does not have a manifest documenting the transport of such tires as required by department rules; or

C. Will transport or handle the scrap tires in violation of this subchapter or of subchapter II-A or rules adopted pursuant to section 1304.

The department shall maintain current lists of uncontrolled tire stockpiles, licensed and authorized tire storage, disposal or processing facilities and transporters licensed or authorized to transport scrap tires.

§1316-M. Transportation of tires

1. Examination of license and manifest. A state, county or local law enforcement officer may examine a nonhazardous waste transporter license to

determine if it is valid, or a nonhazardous waste manifest to determine whether scrap tires are being transported to a licensed or exempt waste facility.

2. Impoundment. When a law enforcement officer has reasonable grounds to believe that scrap tires are being transported to an unlicensed, nonexempt waste facility, or that scrap tires are being transported to a waste facility without a manifest or license as required by the department's nonhazardous waste transporter rules, the law enforcement officer may impound the vehicle and hold the vehicle until the transporter has fully complied with department rules.

3. Alternative manifest. A law enforcement officer may issue an alternative manifest to the transporter to transport scrap tires to a licensed waste facility. An alternative manifest must include the following information:

A. The name and location of the waste generator;

B. The quantity of scrap tires; and

C. The name and location of the waste facility to which the scrap tires are being transported.

A copy of the alternative manifest prepared by the law enforcement officer and any summons issued to the transporter must be sent to the department.

4. Violation. A person commits a Class E crime if that person in fact transports scrap tires without a license or without a manifest as required by department rules. The minimum fines for transporting scrap tires without a manifest are as follows: for a vehicle with a registered gross weight of up to 12,000 pounds, \$500; for a vehicle with a registered gross weight of between 12,001 and 34,000 pounds, \$2,000; and for a vehicle with a registered gross weight of over 34,000 pounds, \$4,500. This minimum fine may not be suspended, but it may be reduced by the amount of the disposal fee paid by the transporter for disposal of the truckload of tires at a licensed waste facility. A person commits a Class D crime if that person, after being cited for a violation of the manifest requirements, transports the tires to an unlicensed, nonexempt waste facility. Notwithstanding Title 17-A, section 1301, the fine for a Class E crime under this subsection may not exceed \$10,000 per violation, and the fine for a Class D crime under this subsection may not exceed \$25,000 per violation.

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

Effective March 29, 1996.

CHAPTER 580

H.P. 1357 - L.D. 1862

An Act to Ensure That Employees Are Compensated for Accrued Vacation Time in the Event of the Sale of a Business

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

Whereas, current law does not allow the Department of Labor to bring an action on behalf of employees for unpaid wages upon the sale of a business; and

Whereas, upon the sale of a business, employees should be given some assurance of fair treatment following that transaction; and

Whereas, certain employees affected by a pending sale are concerned that they will be denied vacation pay; 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 §626, as amended by PL 1991, c. 162, is further amended by adding at the end a new paragraph to read:

Within 2 weeks after the sale of a business, the seller of the business shall pay employees of that business any wages earned while employed by the seller. If the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. The seller of a business may comply with the provisions of this paragraph through a specific agreement with the buyer in which the buyer agrees to pay any wages earned by employees through employment with the seller and to honor any paid vacation earned under the seller's vacation policy.

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

Effective March 29, 1996.

CHAPTER 581**H.P. 99 - L.D. 134****An Act to Amend the Laws
Regarding the Maine Public
Drinking Water Commission**

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

Sec. 1. 22 MRSA §2660-C, sub-§1, ¶A, as enacted by PL 1993, c. 410, Pt. DD, §4, is amended to read:

A. Four of the members must represent the water purveying community and must be ~~employed by~~ associated with public water systems. One of the 4 must be ~~employed by~~ associated with a public water system serving a population of less than 500 people, one must be ~~employed by~~ associated with a public water system serving a population of at least 500 but not more than 3,300 people, one must be ~~employed by~~ associated with a public water system serving a population of at least 3,301 but not more than 10,000 people, and one must be ~~employed by~~ associated with a public water system serving a population greater than 10,000 people.

Sec. 2. 22 MRSA §2660-C, sub-§4, ¶¶A, E and F, as enacted by PL 1993, c. 410, Pt. DD, §4, are amended to read:

A. ~~Determine~~ Evaluate the proportion of program effort dedicated to each type of public water system served by the program;

E. Determine an equitable program funding share for each type of public water system that ~~reflects~~ recognizes the level of program effort required for that public water system;

F. Determine fee formulas and collection and transfer schedules for each type of public water system; and

Sec. 3. 22 MRSA §2660-C, sub-§4, ¶G, as enacted by PL 1993, c. 410, Pt. DD, §4, is repealed.

Sec. 4. 22 MRSA §2660-E, sub-§§1 and 2, as enacted by PL 1993, c. 410, Pt. DD, §4, are amended to read:

1. Rules. The department shall establish fee formulas by rules adopted in accordance with the Maine Administrative Procedure Act. The department must consult with and consider the advice of the commission in preparing the rules. Proposed rules issued by the department under this section must include the fee formulas and collection and transfer

schedules developed by the commission. Fee formulas adopted under this section must be equitable. Fees may be based on, but are not limited to, the population served, service connections, volume of water pumped or available seats, campsites, rooms or lots, and may include fixed or graduated fee formulas or combinations of the fee formulas. ~~Fees~~ The base fee may be no less more than \$50 per year per public water system and. The base plus per capita fee may be no more than \$30,000 per year per public water system.

2. Collection and disposition of fees. Fees adopted under this section cover the period beginning July 1, 1993 and must be collected by each public water system in monthly, quarterly or annual increments. Fees collected by public water systems under this section are state fees ~~and must be enumerated by the public water systems separately from all other charges.~~ The department shall establish schedules for the collection and transfer of fees to the State with the advice of the commission. ~~With the advice of the commission, the department shall establish a reasonable percentage of the fees, not to exceed 2%, that may be retained by each public water system as reimbursement for expenses incurred in the collection of the fees.~~

See title page for effective date.

CHAPTER 582**S.P. 624 - L.D. 1632****An Act Relating to the Sale of
Alcoholic Beverages**

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

Sec. 1. 28-A MRSA §708, sub-§1, as repealed and replaced by PL 1987, c. 342, §44, is amended to read:

1. Certificate of approval holders. ~~No~~ A certificate of approval holder may not offer to wholesale licensees any special discounts, volume discounts, ~~depletion allowances~~ or other reduced prices or discounts, except bona fide price reductions under section 1408 offered to all wholesale licensees. A certificate of approval holder may offer depletion allowances to wholesale licensees if the depletion allowance is posted in accordance with section 1408. ~~No~~ A certificate of approval holder may not offer any free merchandise, rebate or gift contingent on the purchase of malt liquor or wine.

Sec. 2. 28-A MRSA §708-A is enacted to read:

§708-A. In-pack sweepstakes, contests and games

Notwithstanding any provision of law to the contrary, a certificate of approval holder, wholesale licensee or retail licensee may offer sweepstakes, games and contests inside packages of alcoholic beverages, if that offer is not contingent on the purchase of an alcoholic beverage.

See title page for effective date.

CHAPTER 583
S.P. 636 - L.D. 1644

**An Act to Amend the Hospital
Cooperation Act of 1992 to Facilitate
Integrated Health Care Delivery
Systems by Authorizing and
Supervising Certain Hospital
Mergers**

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

Whereas, the merger of certain hospitals or their parent organizations in this State can provide opportunities for measurable and substantial improvements in the quality, accessibility and cost-effectiveness of health care delivered to citizens of this State; and

Whereas, hospital mergers may provide a foundation for future development of integrated health care delivery systems, which can further improve the quality, accessibility and cost-effectiveness of health care; and

Whereas, some mergers of hospitals in this State may involve a substantial percentage of available hospital providers in particular regions of the State and result in undue anticompetitive effects. These mergers should be permitted only if the likely public benefits of the transaction outweigh their likely disadvantages, and governmental supervision of the merging hospitals ensures that any likely benefits to the public from the merger outweigh any likely disadvantages attributable to a reduction in competition from the merger; and

Whereas, it is in the public interest to establish an effective system of governmental review of such hospital mergers when proposed and supervision of approved mergers; and

Whereas, in the judgment of the Legislature the procedures established by this measure will provide sufficient government review and supervision so as to ensure that only those hospital mergers whose likely

benefits will outweigh their likely disadvantages will receive favorable consideration under this Act; and

Whereas, certain hospitals operating in the State or their parent organizations are in the process of planning a merger to provide coordinated hospital care. These hospitals desire to complete all necessary steps to provide hospital services on an integrated basis by January 1, 1997; and

Whereas, the process of an initial administrative review established by this Act must begin in mid-1996 in order to be completed in sufficient time to allow a determination whether and under what circumstances such hospital mergers should be approved under the authority of this measure; 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 §1882, sub-§1, as amended by PL 1995, c. 232, §1, is further 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 or for the merger of 2 or more hospitals.

Sec. 2. 22 MRSA §1882, sub-§2-A is enacted to read:

2-A. Merger. "Merger" means a transaction by which ownership or control over substantially all of the stock, assets or activities of one or more licensed and operating hospitals is placed under the control of another licensed hospital or hospitals or the parent organization of that hospital or hospitals.

Sec. 3. 22 MRSA §1883, sub-§2-A is enacted to read:

2-A. Letter of intent. Parties to a hospital merger agreement who intend to file an application for a certificate of public advantage for the merger transaction shall file a letter of intent describing the proposed merger with the department and the

Attorney General at least 45 days prior to the filing of the application for a certificate of public advantage.

Sec. 4. 22 MRSA §1883, sub-§3, as enacted by PL 1991, c. 814, §1, is repealed and the following enacted in its place:

3. Procedure for department review. The following procedures apply to the review of the application by the department.

A. The department shall review and evaluate the application in accordance with the standards set forth in subsection 4.

B. The department shall furnish copies of any letter of intent, application or decision to a person who requests copies and to a person who registers annually with the department for that purpose. A person may provide the department with written comments concerning the application within 30 days after the application is filed. The department shall provide the Attorney General with copies of all comments.

C. The department may hold a public hearing in accordance with rules adopted by the department. Intervention is governed by the provisions of Title 5, section 9054.

D. The parties to a cooperative agreement may withdraw their application and thereby terminate all proceedings under this chapter as follows:

(1) Without the approval of the department, the Attorney General or the Superior Court anytime prior to the filing of an answer or responsive pleading in a court action under section 1885, subsection 2 or prior to entry of a consent decree under section 1885, subsection 7; or

(2) Without the approval of the department, anytime prior to the issuance of a final decision under paragraph E if a court action has not been filed under section 1885, subsection 2.

E. The department shall grant or deny finally the application no less than 40 days nor more than 90 days after the filing of the application. The department shall issue a recommended decision at least 5 days prior to issuing a final decision granting or denying the application. The recommended and final decisions must be in writing and set forth the basis for the decision.

Sec. 5. 22 MRSA §1883, sub-§4, ¶¶A and B, as amended by PL 1995, c. 232, §4, are further 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 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; and

(6) Continuation or establishment of needed educational programs for health care professionals and providers.

In any certificate for a merger issued under this chapter, the department shall make specific findings as to the nature and extent of any likely benefit found under this paragraph.

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 hospitals, 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; and

(5) The extent of any likely adverse impact on the access of persons in in-state educational programs for health professions to existing or future clinical training programs.

Sec. 6. 22 MRSA §1883, sub-§4, ¶C is enacted to read:

C. In evaluating the cooperative agreement under the standards in paragraphs A and B, the department shall consider the extent to which any likely disadvantages may be ameliorated by any reasonably enforceable conditions and the extent to which the likely benefits or favorable balance of benefits over disadvantages may be enhanced by any reasonably enforceable conditions under subparagraph (2).

(1) In any certificate issued under this subsection, the department may include conditions reasonably necessary to ameliorate any likely disadvantages of the type specified in paragraph B, subparagraphs (1) to (3).

(2) In any certificate issued under this subsection, the department may include additional conditions, if proposed by the applicants, designed to achieve public benefits, which may include but are not limited to the benefits listed in paragraph A.

(3) In any certificate issued under this subsection the department shall require the applicants to report periodically the extent of their compliance with any conditions issued under this paragraph. The department shall review the applicant's submission and compliance and report the results of its review to the Attorney General. Reviews are required as follows:

(a) For transactions not involving mergers, at least once in the first 39 months after issuance of the certificate; and

(b) For transactions involving mergers, between 27 and 39 months after issuance of the certificate. In this review the department also shall analyze the extent to which benefits have been achieved by the merger.

Sec. 7. 22 MRSA §1883, sub-§6, as enacted by PL 1991, c. 814, §1, is amended to read:

6. Certificate termination and enforcement.

If the department determines that the likely benefits resulting from a certified agreement no longer outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the department may initiate proceedings to terminate the certificate of public advantage ~~in accordance with Title 5, chapter 375, subchapter IV.~~ The department may institute proceedings to enforce any conditions included in the certificate if it determines that the applicants are not in substantial compliance with such conditions. All proceedings under this subsection must be conducted under Title 5, chapter 375, subchapter IV.

Sec. 8. 22 MRSA §1885, sub-§1, as amended by PL 1993, c. 719, §10 and affected by §12, is further amended to read:

1. Investigative powers. The Attorney General, at any time after an application is filed under section 1883, subsection 2, or a letter of intent is filed under section 1883, subsection 2-A, may require by subpoena the attendance and testimony of witnesses and the production of documents in Kennebec County or the county in which the applicants are located for the purpose of investigating whether the cooperative agreement satisfies the standards set forth in section 1883, subsection 4. All documents produced and testimony given to the Attorney General are confidential. The Attorney General may seek an order from the Superior Court compelling compliance with a subpoena issued under this section.

Sec. 9. 22 MRSA §1885, sub-§§2 and 3, as enacted by PL 1991, c. 814, §1, are amended to read:

2. Court action; time limits. The Attorney General may seek to enjoin the operation of a cooperative agreement for which an application for certificate of public advantage has been filed by filing suit against the parties to the cooperative agreement in Superior Court. The Attorney General may file an action before or after the department acts on the application for a certificate ~~but, except as provided in subsection 5; however,~~ the action must be brought no later than 40 days following the department's approval of an application for a certificate of public advantage. After the filing of a court action under this subsection, the department may not take any further action under this chapter and the time periods specified for departmental action under section 1883, subsection 3 are tolled until the court action is dismissed by the Attorney General or the Superior Court orders the department to take further action.

3. Automatic stay. Upon the filing of the complaint in an action under subsection 2, the

department's certification, if previously issued, must be stayed and the cooperative agreement is of no further force unless the court orders otherwise or until the action is concluded. The applicants for certificate of public advantage may apply to the Superior Court for relief from that stay; the relief may be granted only upon showing of compelling justification. The Attorney General may apply to the court for any ancillary temporary or preliminary relief necessary to stay the cooperative agreement pending final disposition of the case.

Sec. 10. 22 MRSA §1885, sub-§5, ¶B, as enacted by PL 1991, c. 814, §1, is amended to read:

B. In any action under this subsection, if the Attorney General first establishes by a preponderance of evidence that the department's certification was obtained as a result of material misrepresentation to the department or the Attorney General or as the result of coercion, threats or intimidation toward any party to the cooperative agreement, then the parties to the agreement bear the burden of establishing by clear and convincing evidence that the benefits resulting from the agreement and the unavoidable costs of canceling the agreement ~~are outweighed by~~ outweigh the disadvantages attributable to any reduction in competition resulting from the agreement.

Sec. 11. 22 MRSA §1885, sub-§5-A is enacted to read:

5-A. Enforcement of conditions. Conditions included in a certificate may be enforced according to this subsection.

A. If the parties to a cooperative agreement not involving a merger are not in substantial compliance with any conditions included in the certificate under section 1883, subsection 4, or in a consent decree entered under subsection 7, the Attorney General may seek an order from the Superior Court compelling compliance with such conditions or other appropriate equitable remedies. If the Superior Court grants such relief and that relief is not effective in securing compliance with the conditions, the Superior Court may impose additional equitable remedies, including the exercise of civil contempt powers, or may cancel the certificate of public advantage upon a determination that advantages to be gained by canceling the certificate outweigh the unavoidable costs resulting from a cancellation.

B. If the parties to a cooperative agreement involving a merger are not in substantial compliance with any conditions included in the certificate under section 1883, subsection 4, or in a consent decree entered under subsection 7, the

Attorney General may seek an order from the Superior Court compelling compliance with such conditions. If the parties to the merger fail to comply with any court order compelling compliance with such conditions, the Superior Court may impose additional equitable remedies to secure compliance with its orders, including the exercise of civil contempt powers or appointment of a receiver. If these additional measures are not effective in securing compliance with the conditions, and the Superior Court determines that the advantages to be gained by divestiture outweigh the unavoidable costs of requiring divestiture, the Superior Court may cancel the certificate and order divestiture of assets.

Sec. 12. 22 MRSA §1885, sub-§7, as enacted by PL 1991, c. 814, §1, is amended to read:

7. Resolution by consent decree. The Superior Court may resolve any action brought by the Attorney General under this chapter by entering an order ~~that with the consent of the parties, modifies the cooperative agreement.~~ The consent decree may contain any conditions authorized by section 1883, subsection 4, paragraph C. A consent decree under this subsection may not be filed with the Superior Court until 30 days after the filing of the application under section 1883, subsection 2. Upon the entry of such an order, the parties to the cooperative agreement have the protection specified in section 1886 and the cooperative agreement has the effectiveness specified in section 1886.

Sec. 13. 22 MRSA §1886, sub-§§1 and 2, as enacted by PL 1991, c. 814, §1, are amended to read:

1. Validity of certified cooperative agreements. Notwithstanding Title 5, chapter 10, Title 10, section 1101 ~~chapter 201~~ or any other provision of law, a cooperative agreement for which a certificate of public advantage has been issued is a lawful agreement. Notwithstanding Title 5, chapter 10, Title 10, section 1102 ~~chapter 201~~ or any other provision of law, if the parties to a cooperative agreement file an application for a certificate of public advantage governing the agreement with the department, the conduct of the parties in negotiating and entering into a cooperative agreement is lawful conduct. Nothing in this subsection immunizes any person for conduct in negotiating and entering into a cooperative agreement for which an application for a certificate of public advantage is not filed.

2. Validity of cooperative agreements determined not in public interest. ~~If the department or, in any action by the Attorney General, the Superior Court determines that the applicants have not estab-~~

lished by clear and convincing evidence that the likely benefits resulting from a cooperative agreement outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the agreement is invalid and has no further force or effect when the judgment becomes final after the time for appeal has expired or the judgment of the Superior Court is affirmed on appeal.

Sec. 14. 22 MRSA §1886, sub-§4, as enacted by PL 1991, c. 814, §1, is repealed.

Sec. 15. 22 MRSA §1889 is enacted to read:

§1889. Application fee

Any application for a certificate of public advantage involving a merger must be accompanied by an application fee of \$10,000, unless the hospitals seeking to merge each have less than 50 licensed beds, in which case the fee is \$2,500. The department shall place these funds into a nonlapsing dedicated revenue account and funds may be used only by the Attorney General for the payment of the cost of experts and consultants in connection with reviews conducted under this chapter.

Sec. 16. 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 THE Administration - Attorney General		
All Other	\$20,000	\$50,000
Provides funds for contractual services of experts to review hospital merger applications.		

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

Effective April 1, 1996.

CHAPTER 584

S.P. 643 - L.D. 1687

**An Act to Make Changes to the
Motor Vehicle Laws**

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

PART A

Sec. A-1. 29-A MRSA §504, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Truck or truck tractor and semitrailer. In computing fees for a combination of truck or truck tractor and semitrailer, the vehicle to be registered for gross weight is the truck or truck tractor and the rate is the same as for a truck of similar gross vehicle weight. The gross weight used to determine the registration fee under subsection 1 is the combined gross weight of the truck or truck tractor and semitrailer.

Sec. A-2. 29-A MRSA §1905-A is enacted to read:

§1905-A. Turn signal

1. Requirement. Except as provided in subsection 3, a motor vehicle, trailer or semitrailer must be equipped with electric flashing turn signal lamps. A motor vehicle must emit white or amber light from the turn signals to the front of the vehicle and a motor vehicle, trailer or semitrailer must emit amber or red light from the turn signals to the rear of the vehicle.

2. Vehicles physically connected. When a vehicle that is being operated is physically connected to another vehicle, only the last vehicle must carry turn signals to the rear.

3. Vehicles manufactured without turn signal. Automobiles and trucks less than 80 inches in width, manufactured or assembled prior to January 1, 1953 need not be equipped with electric turn signal lamps.

4. Exception for farm tractors. This section does not apply to unregistered farm tractors.

Sec. A-3. 29-A MRSA §1953, sub-§2, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A truck with a registered gross vehicle weight of 6,000 pounds or less;

Sec. A-4. 29-A MRSA §2358, 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. Travel to scales. If scales are not available, the officer may require that an operator of a vehicle go to the nearest public scales location capable of weighing the vehicle, if the travel does not increase by more than 5 miles the distance that the operator may reasonably travel to reach its the operator's destination.

2. Weighing points. The Chief of the State Police, or a person designated by the chief, may designate weighing points ~~where public stationary scales are located.~~

A weighing point must have signs:

- A. Not less than 500 feet from approaching traffic;
- B. Bearing the words "State Police Truck Check - All Trucks Stop"; and
- C. Displaying flashing yellow lights, which must operate when the weighing station is open.

The placement of signs is prima facie evidence that these signs were displayed in accordance with this section.

An operator of a vehicle subject to GVW restrictions who fails to stop at the weighing point when the signs are operating, unless otherwise directed by a state police officer, commits a traffic infraction for which a forfeiture not to exceed \$500 may be adjudged.

Sec. A-5. 29-A MRSA §2360, sub-§§4, 5 and 6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

4. Minor gross weight violations. ~~It is not a violation~~ The fine is waived and a Violation Summons and Complaint is not issued if the allowable gross vehicle weight is exceeded by less than 500 pounds multiplied by the number of axles less one. If the allowable gross weight is exceeded by more than 500 but less than 1,000 pounds multiplied by the number of axles less one, the fine is reduced by 50%.

5. Minor axle weight violations. ~~It is not a violation~~ The fine is waived and a Violation Summons and Complaint is not issued if the allowable weight on an axle or group of axles is exceeded by less than 1,000 pounds. If the excess is less than 1,000 pounds plus 500 pounds multiplied by the number of axles in the axle group, the fine is reduced by 66%. If the excess is less than 1,000 pounds plus 1,000 pounds multiplied by the number of axles in the axle group, the fine is reduced by 50%.

6. Axle overweight not exceeding 5%. ~~It is not a violation~~ The fine is waived and a Violation Summons and Complaint is not issued if, before any redistribution of load under subsection 7, the gross vehicle weight is not exceeded and the weight of a single-axle unit, tandem-axle unit or tri-axle unit is not more than 105% of the allowable weight for that axle unit.

PART B

Sec. B-1. 29-A MRSA §101, sub-§30, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

30. 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.

"Law enforcement officer" also means an officer or special investigator of the Bureau of Taxation, but only when the officer or special investigator is engaged in enforcement of tax laws under this Title or Title 36.

Sec. B-2. 29-A MRSA §103, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Exclusive penalty. The exclusive penalty for a traffic infraction is a fine of not less than \$25 nor more than \$500, unless specifically authorized, or suspension of a license, or both.

Sec. B-3. 29-A MRSA §110, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. B-4. 29-A MRSA §351, sub-§1-A, as enacted by PL 1995, c. 454, §2, is repealed and the following enacted in its place:

1-A. Residents required to register. An owner of a vehicle who becomes a resident of this State shall register that vehicle in this State within 30 days of establishing residency. A person who operates or allows a vehicle that is not registered in accordance with this subsection to remain on a public way commits a Class E crime pursuant to subsection 1.

Sec. B-5. 29-A MRSA §1251, sub-§1-A is enacted to read:

1-A. Residents required to obtain license. Within 30 days of becoming a resident of this State, a person shall apply to obtain a license in accordance with section 1301. A person who fails to comply with the requirement of this subsection and operates a motor vehicle on a public way or parking area commits a Class E crime pursuant to subsection 1.

Sec. B-6. 29-A MRSA §1251, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Penalty. Operating without a license is a Class E crime, except that if the license is issued by

this State and has expired within ~~30~~ 90 days, the offense is a traffic infraction.

Sec. B-7. 29-A MRSA §1921, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1921. Television prohibited from vehicles

A person may not operate a motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast that is visible to the operator. This section does not apply to a law enforcement officer using a video camera or other video equipment for law enforcement purposes.

Sec. B-8. 29-A MRSA §2074, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Criminal offense. A person commits a Class E crime if that person operates a motor vehicle at a speed that exceeds the maximum rate of speed by 30 miles per hour or more.

The complaint for a violation of a speed limit must specify the speed at which the defendant is alleged to have operated a motor vehicle.

~~A person who operates a motor vehicle on the Maine Turnpike or the Interstate Highway System at a speed that exceeds the posted speed of 65 miles per hour commits a traffic infraction punishable by a fine of not less than \$50.~~

Sec. B-9. 29-A MRSA §2074, sub-§3-A is enacted to read:

3-A. Minimum fine. A person who operates a motor vehicle on the Maine Turnpike or the Interstate Highway System at a speed that exceeds the posted speed of 65 miles per hour by less than 30 miles per hour commits a traffic infraction punishable by a fine of not less than \$50.

Sec. B-10. 29-A MRSA §2080, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2080. Operation of all-terrain vehicles

Notwithstanding any other provision of law, whenever an all-terrain vehicle is operated on a way, it is subject to all provisions of this Title, except chapters 5, 7, 13 and 15. Whenever an all-terrain vehicle is operated on a way, the operator is not subject to the provisions of chapter 11, except when the all-terrain vehicle is registered for highway use.

Sec. B-11. 29-A MRSA §2604, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2604. Traffic infraction; general penalty

A traffic infraction must be punished by a fine of not less than \$25 nor more than ~~\$250~~ \$500 when no other penalty is specifically provided.

See title page for effective date.

CHAPTER 585

H.P. 1246 - L.D. 1708

An Act to Amend the Laws Relating to Recovery for Property Damage

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

Sec. 1. 14 MRSA §7551-B is enacted to read:

§7551-B. Trespass damages

1. Prohibition. A person who intentionally enters the land of another without permission and causes damage to property is liable to the owner in a civil action if the person:

A. Damages or throws down any fence, bar or gate; leaves a gate open; breaks glass; damages any road, drainage ditch, culvert, bridge, sign or paint marking; or does other damage to any structure on property not that person's own; or

B. Throws, drops, deposits, discards, dumps or otherwise disposes of litter, as defined in Title 17, section 2263, subsection 2, in any manner or amount, on property not that person's own.

2. Liability. If the damage to the property is caused intentionally, the person is liable to the owner for 2 times the owner's actual damages plus any additional costs recoverable under subsection 3, paragraphs B and C. If the damage to the property is not caused intentionally, the person is liable to the owner for the owner's actual damages plus any additional costs recoverable under subsection 3, paragraphs B and C.

3. Damages recoverable. The owner's damages include:

A. Actual damages, as measured by subsection 4;

B. Costs the owner may incur if the damage results in a violation of any federal, state or local law or ordinance and, as a result, the owner becomes the subject of an enforcement proceeding. These costs include attorney's fees, costs and the value of the owner's time spent on involvement in the enforcement proceeding; and

C. Reasonable attorney's fees for preparing the claim and bringing the court action under this section plus costs.

4. Measure of damages. For damage to property under subsection 1, paragraph A, the owner's damages may be measured either by the replacement value of the damaged property or by the cost of repairing the damaged property. For damages for disposing of litter, the owner's damages include the direct costs associated with properly disposing of the litter, including obtaining permits, and the costs associated with any site remediation work undertaken as a result of the litter.

5. Other actions barred. A recovery from a defendant under this section bars an action to recover damages under section 7552 from that defendant for the same specific damage.

Sec. 2. 14 MRSA §7552, as repealed and replaced by PL 1995, c. 450, §2, is amended by repealing and replacing the headnote to read:

§7552. Injury to land, forest products or agricultural products

Sec. 3. 14 MRSA §7552, sub-§§2, 3 and 4, as enacted by PL 1995, c. 450, §2, are amended to read:

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; or

~~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~~ This subsection governs 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.

C. When a monument or marker has been disturbed, removed or destroyed, the owner's damages may include the cost of replacing a monument or marker by a licensed surveyor.

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 or \$250, whichever is greater.

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 or \$500, whichever is greater.

C. In addition to the damages recoverable under paragraphs A and B, a person who violates subsection 2 is also liable to the owner for the costs the owner may incur if the violation results in a violation of any federal, state or local law or ordinance and, as a result, the owner becomes the subject of an enforcement proceeding. These costs include attorney's fees, costs and the value of the owner's time spent on involvement in the enforcement proceeding.

Sec. 4. 14 MRSA §7552, sub-§8 is enacted to read:

8. Other actions barred. A recovery from a defendant under this section bars an action to recover damages under section 7551-B from that defendant for the same specific damage.

See title page for effective date.

CHAPTER 586

S.P. 665 - L.D. 1725

An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger

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

Sec. 1. 12 MRSA §9001, sub-§§1 and 2, as enacted by PL 1979, c. 545, §3, are amended to read:

1. Determination by director. ~~Whenever the~~ The director shall inform the Governor when the director determines that:

A. A high degree of forest fire danger exists in any part of the State; and

B. Human activity ~~in connection with hunting or fishing~~ is likely to pose a forest fire menace; ~~the director shall communicate such determination to the Governor.~~

2. Proclamation. The Governor may, by proclamation, suspend the open season for hunting or fishing or prohibit out-of-door smoking or building or using out-of-door fires or prohibit any other human activity likely to be a menace to the forests for such time and in such ~~sections~~ areas of the State as considered necessary. The type and manner of hunting and fishing or other human activity that is prohibited ~~shall~~ must be designated in the proclamation.

Sec. 2. 12 MRSA §9001, sub-§3, as enacted by PL 1979, c. 545, §3, is repealed.

Sec. 3. 12 MRSA §§9001-A and 9001-B are enacted to read:

§9001-A. Definitions

As used in this subchapter, the following terms have the following meanings.

1. Licensed camping facility. "Licensed camping facility" means a recreational camp or camping area licensed under Title 22, chapter 562.

§9001-B. Exemptions

1. General. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation human activities or out-of-door fires that the Governor determines are not a significant menace to the forests.

2. Certain public campsites. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at campsites under the jurisdiction of the Department of Conservation or the Baxter State Park Authority, as long as the campsite and the use of out-of-door fires and charcoal and gas grills at the campsite comply with rules adopted under subsection 4.

3. Licensed camping facilities. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at a licensed camping facility if:

A. The facility and the use of out-of-door fires and charcoal and gas grills at the facility comply with rules adopted under subsection 4;

B. The owner or operator of the facility notifies the director in writing that the facility complies with rules adopted pursuant to subsection 4; and

C. The director provides the owner or operator of the facility written confirmation of receipt of notification required under paragraph B. Confirmation of receipt does not imply a determination that the facility complies with the rules adopted pursuant to subsection 4.

4. Rules. The director shall adopt rules that establish standards of design, construction and use under which the use of an out-of-door fire or a charcoal or gas grill at a public campsite or licensed camping facility may be exempted pursuant to subsections 2 and 3.

Rules adopted pursuant to this subsection are major substantive rules as defined in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II-A.

5. Inspection. The director may at any time inspect a licensed camping facility to determine whether that facility complies with rules adopted under subsection 4. If the director determines that a facility fails to comply with the rules, the facility is not exempt. A facility that fails an inspection may not be granted a future exemption unless the director inspects the facility and determines that it complies with the rules. The director may delegate authority to conduct inspections to a state or municipal employee.

6. Notification. The owner or operator of a licensed camping facility and the supervisor of a campsite under the jurisdiction of the Department of Conservation or the Baxter State Park Authority shall post a notice of a proclamation issued under section 9001 and any standards of use to be met under rules adopted pursuant to subsection 4.

Sec. 4. 12 MRSA §§9002 and 9003, as enacted by PL 1979, c. 545, §3, are amended to read:

§9002. Posting and publishing

~~Such~~ The proclamation shall ~~must~~ be published in such newspapers of the State and posted in such places as the Governor ~~deems~~ considers necessary and a copy of ~~such~~ that proclamation ~~shall~~ must be filed

with the Secretary of State. A ~~like~~ copy ~~shall~~ must be furnished to the director, who shall attend to the posting and publication of the proclamation. ~~All The expense thereof of posting and publication and all the expense of enforcing the proclamation shall be~~ are paid by the director, after allowance by the State Controller, from the appropriation for general forestry purposes.

§9003. Repeal; amend

If, after issuing the proclamation provided for in section 9001, by reason of rains or otherwise the Governor is satisfied that the occasion for the issuance of the proclamation has passed, ~~he~~ the Governor may ~~annul amend, repeal and replace~~ it by another proclamation affecting the sections covered by the original proclamation, or any part ~~thereof~~ of the original proclamation, ~~which~~ and that new proclamation ~~shall~~ must be published and posted in the same manner as provided for the issuance of the original proclamation.

Sec. 5. 12 MRSA §9004, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

§9004. Penalty

1. Violation of proclamation. Notwithstanding section 9701, any person who in fact violates the provisions of a proclamation issued under section 9001 commits a Class E crime.

2. Violation at licensed camping facility. Notwithstanding subsection 1 and section 9701, a person who is an occupant or customer of a licensed camping facility commits a Class E crime if that person:

A. Is notified of a proclamation in accordance with section 9001-B, subsection 6 and violates a proclamation issued under section 9001.

3. Violation at exempt licensed camping facility. Notwithstanding subsection 1 and section 9701, a person who is an occupant or customer of a licensed camping facility provided an exemption under section 9001-B, subsection 3 commits a Class E crime if that person:

A. Is notified of an exemption and standard of use in accordance with section 9001-B, subsection 6 and burns an out-of-door fire or utilizes a charcoal or gas grill in violation of a rule adopted under section 9001-B, subsection 4.

4. Violation by owner or operator of licensed camping facility. Notwithstanding section 9701, an owner or operator of a licensed camping facility commits a Class E crime if the owner or operator:

A. Fails to notify a person in accordance with section 9001-B, subsection 6;

B. Allows a person to violate a proclamation issued under section 9001; or

C. Operates a facility that is exempt pursuant to 9001-B that does not comply with rules adopted under section 9001-B, subsection 4.

See title page for effective date.

CHAPTER 587

S.P. 696 - L.D. 1770

An Act to Exempt Certain Individuals from Unemployment Insurance Requirements

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

Whereas, under federal law, certain individuals engaged in fishing activities are exempt from unemployment insurance requirements; and

Whereas, Maine's Department of Labor recently determined that a clam digger is an employee and that the clam digger's employer is required to pay unemployment insurance; and

Whereas, Maine's Department of Labor has indicated that other types of individuals engaged as licensed Maine guides also are subject to unemployment insurance requirements; and

Whereas, requiring the payment of unemployment insurance on clam diggers and Maine guides when the individuals consider themselves independent contractors and when federal law provides an exemption may have a deleterious impact on the economic competitiveness of certain businesses in 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:

Sec. 1. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1995, c. 204, §§1 and 2, is further amended by amending subparagraphs (32), (36) and (37) to read:

(32) After December 31, 1981, services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Act, United States Code, Title 26, Section 3306(c), as it may be amended, Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(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 that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year; ~~and~~

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax-; and

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1995, c. 204, §§1 and 2, is further amended by enacting subparagraph (38) to read:

(38) Services performed by a person licensed as a guide as required by Title 12, section 7311, as long as that employment is not subject to federal unemployment tax.

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

Effective April 1, 1996.

CHAPTER 588

S.P. 720 - L.D. 1824

An Act Relating to Solid Waste Management

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

Sec. 1. 38 MRSA §1310-X, sub-§4, as amended by PL 1993, c. 355, §52, is repealed and the following enacted in its place:

4. Exemption. The following are exempt from the provisions of this section:

A. A commercial biomedical waste disposal or treatment facility, if at least 51% of the facility is owned by a hospital or hospitals as defined in Title 22, section 382, subsection 7, or an affiliated interest or interests as defined in Title 22, section 396-L, subsection 1, paragraph A; and

B. Expansion of a commercial solid waste disposal facility, if the expansion will not result in an increase in the facility's disposal capacity and the expansion will not be used for solid waste disposal.

Sec. 2. 38 MRSA §2122, sub-§2, as repealed and replaced by PL 1995, c. 465, Pt. A, §34 and affected by Pt. C, §2, is amended to read:

2. Revisions. The office shall revise the analysis ~~at least~~ by January 1, 1998 and every 2 ½ years ~~after that time~~ 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. 3. 38 MRSA §2123-B is enacted to read:

§2123-B. Review of policy

In conjunction with revisions of the plan every 5 years, the office shall establish a broad-based task force, including Legislators from the joint standing committee of the Legislature having jurisdiction over natural resource matters and representatives of groups interested in commercial landfill policy. The task force shall review state policy regarding the development of commercial solid waste disposal facilities and shall report its findings and recommendations to the Governor, the department and the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 4. 38 MRSA §2124-A is enacted to read:

§2124-A. Solid waste generation and disposal capacity report

By January 1, 1997 and every 2 years thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource matters setting forth information on statewide generation of solid waste, statewide

recycling rates and available disposal capacity for solid waste.

Sec. 5. 38 MRSA §2156, as amended by PL 1995, c. 465, Pt. A, §§64 and 65 and affected by Pt. C, §2, is repealed.

Sec. 6. 38 MRSA §2156-A is enacted to read:

§2156-A. Facility development

1. Planning for development. The office shall plan for the development of facilities sufficient to meet needs for municipal solid waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State. The office may plan for the development of facilities sufficient to meet needs for special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State.

2. Recommendation for development. If the office finds that construction and operation of a state-owned solid waste disposal facility is needed to meet needs identified in the state plan, it shall submit a report recommending the construction and operation to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The report must recommend which state agency or department will own the facility and how it will be operated. It is the intent of the Legislature that the facility be operated by a private contractor. A state-owned solid waste disposal facility may not be constructed or operated unless authorized by legislation pursuant to subsection 3.

3. Authorization for development. The joint standing committee of the Legislature having jurisdiction over natural resource matters may report out legislation authorizing construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to subsection 2.

4. Ownership, construction and operation. The office shall maintain ownership of a site acquired for construction of a state-owned solid waste disposal facility until the Legislature authorizes transfer of the site to another state department or agency, except that this subsection does not prohibit any lease or transfer of the site pursuant to an agreement entered into before the effective date of this subsection or pursuant to any amendment to such an agreement entered into before or after the effective date of this subsection.

5. Development by others. This section does not preclude a municipality or regional association from developing and operating solid waste disposal facilities on its own initiative.

See title page for effective date.

CHAPTER 589

H.P. 53 - L.D. 47

**An Act to Make Pet Dealers Liable
for the Sale of Dogs and Cats That
Have Health Problems**

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

Sec. 1. 7 MRSA c. 745 is enacted to read:

CHAPTER 745

SALE OF DOGS AND CATS

§4151. Definitions

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

1. Animal. "Animal" means a dog, wholly or in part of the species canis familiaris or a cat, wholly or in part of the species felis domesticus.

2. Breeder. "Breeder" means a person, firm, partnership, corporation or association that breeds animals for direct or indirect sale to the public.

3. Health problem. "Health problem" means any disease, illness or any congenital or hereditary condition that would impair the health or function of an animal.

4. Pet dealer. "Pet dealer" means a person, firm, partnership, corporation or association, including breeders, that is required to collect sales tax for the sale of animals to the public. Pet dealer does not include humane societies, nonprofit organizations performing the functions of humane societies or animal control agencies.

5. Veterinarian. "Veterinarian" means a person licensed as a veterinarian in any state.

§4152. Disclosure

1. Required disclosure. A pet dealer shall deliver to a purchaser of an animal a written disclosure containing the following:

A. An animal history that includes:

(1) The name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal;

(2) The date of the animal's birth;

(3) The date the pet dealer received the animal;

(4) The breed, sex, color and identifying marks of the animal;

(5) The individual identifying tag, tattoo or collar number;

(6) For pure bred animals, the name and registration number of the sire and dam and the litter number; and

(7) A record of inoculations, worming treatments, medication or any veterinarian treatment received by the animal while in the possession of the breeder or dealer;

B. A statement signed by the pet dealer that the animal at time of delivery has no known health problem or a statement disclosing any known health problem.

The statement must include the date at which the dealer is aware that the animal was last seen by a veterinarian;

C. A pet dealer who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal. Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph; and

D. The pet dealer shall indicate whether or not, to the pet dealer's knowledge, the animal or its sire or dam is registered with, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms. Notwithstanding section 4151, breeders are not bound by the provisions of this paragraph.

2. Optional disclosure. The pet dealer may provide the purchaser with a list of congenital or hereditary problems that are known to affect the breed being purchased and a list of any health problems for which the dealer does not warranty the animal.

3. Disclosure procedures. The following disclosure procedures must be followed.

A. The disclosure required by subsection 1 must be made part of the statement of consumer rights set forth in section 4160.

B. The written disclosure made pursuant to this section must be signed by both the pet dealer certifying the accuracy of the statement and by

the purchaser of the animal acknowledging receipt of the statement.

C. The dealer shall make a prospective purchaser aware that the purchaser may see this information prior to purchase.

§4153. Sale prohibited

Notwithstanding section 4152, a pet dealer may not sell an animal that has any obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality or has any disease, illness or condition that requires hospitalization or nonelective surgical procedures.

§4154. Records

The pet dealer shall maintain, for 2 years, a copy of the statement of consumer rights delivered to the purchaser.

§4155. Rights of the purchaser

1. Unfit for sale. If, within 10 days after receipt of the animal by the purchaser, a veterinarian states in writing that the animal has a health problem that existed in the animal at the time of delivery or if, within one year after receipt of the animal by the purchaser, a veterinarian states in writing that due to a hereditary or congenital defect the animal has died or has a condition that will shorten its life or will require constant treatment during its life, the animal is considered to have been unfit for sale at the time of sale.

2. Death; remedies. When an animal dies due to a health problem that would have rendered the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser:

A. An animal of equal value, if available; or

B. A refund of the full purchase price of the animal.

3. Health problem; remedies. When an animal has a health problem that renders the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser:

A. Return of the animal to the pet dealer for a refund of the full purchase price of the animal;

B. Exchange of the animal for an animal of the purchaser's choice of equivalent value, providing a replacement is available; or

C. Retainment of the animal and reimbursement for 1/2 of the reasonable veterinary fees not to exceed 1/2 of the original purchase price of the animal.

4. Veterinary service; fees. The fee for veterinary service is reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the fee for the service is comparable to fees charged by other veterinarians who are in proximity to the treating veterinarian.

§4156. Responsibilities of purchaser

To obtain the remedies provided in section 4155, the purchaser has the following responsibilities with respect to an animal with a health problem.

1. Veterinary diagnosis. The purchaser must notify the pet dealer, within 2 business days, of the diagnosis by a veterinarian of a health problem and provide the pet dealer with the name and telephone number of the veterinarian and a copy of the veterinarian report on the animal.

2. Refund. If the purchaser wishes to receive a full refund for the animal, the purchaser must return the animal no later than 2 business days after receipt of a written statement from a veterinarian indicating that the animal is unfit due to a health problem. With respect to a dead animal, the purchaser must provide the pet dealer with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the receipt of the animal by the purchaser.

§4157. Rights of pet dealer

1. Refusal to sell. A pet dealer may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter.

2. Exemption from purchaser remedies. A refund, replacement or reimbursement of veterinary fees is not required if any one or more of the following conditions are met.

A. The health problem or death of the animal resulted from maltreatment, neglect or a disease contracted while in the possession of the purchaser or from an injury sustained subsequent to receipt of the animal by the purchaser.

B. A disclosure statement was provided to the purchaser pursuant to section 4152 that disclosed the health problem for which the purchaser seeks to return the animal.

C. The health problem is a hereditary or congenital one covered by section 4152.

D. The health problem is one that the dealer has indicated is not covered in the warranty for the animal.

§4158. Contest

1. Demand for remedy; contest. When a pet dealer wishes to contest a demand for the remedy specified in section 4155, the pet dealer may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the pet dealer. The pet dealer shall pay the cost of this examination or autopsy. The pet dealer has a right of recovery against the purchaser if the pet dealer is not obligated to provide a remedy under section 4155.

2. Right to court action. If the pet dealer does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. Upon request to the department, by the purchaser and dealer, the commissioner or a veterinarian employed by the State shall arbitrate the dispute. This arbitration must be on a nonbinding basis unless both purchaser and dealer agree to binding arbitration. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees not to exceed \$500.

§4159. Posted notice

A pet dealer whose facility has public access shall post, in a prominent location in the area to which a prospective purchaser would have access, a notice printed in a minimum of 48-point, bold-faced type and containing the following language:

"YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND DISCLOSURE OF YOUR ANIMAL'S HEALTH HISTORY AND THE WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE TIME OF PURCHASE."

§4160. Notice of consumer rights

1. Written notice. A pet dealer shall provide the purchaser a written notice of rights, signed by the pet dealer, certifying the accuracy of the information contained in the notice. The notice must be signed by the purchaser, acknowledging that the purchaser has reviewed and understood the written notice. A signed copy must be retained by the pet dealer and one copy given to the purchaser. The notice must be in a minimum of 16-point, bold-faced type and must state the following:

"A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND CATS:

The sale of dogs and cats is subject to consumer protection regulations. Maine law also provides safeguards to protect pet dealers and animal purchasers. Attached is a copy of the Maine Revised Statutes, Title 7, chapter 745. Contained in this law is a statement of your consumer rights and remedies. Also attached is your pet's health history and specific warranty information."

2. Oral notice. In addition, all medical information required to be disclosed pursuant to this section must be orally disclosed to the purchaser by the dealer prior to purchase.

The statement of consumer rights must also contain or have attached the disclosure required under section 4152 and the name and phone number of the state agency to be contacted in the event of perceived violations of this chapter.

§4161. Limitation

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law. An agreement or contract by a purchaser to waive rights under this chapter is void and unenforceable.

§4162. Additional penalties

1. Criminal penalty. A person who violates a United States Department of Agriculture statute or regulation covering animal breeders or groomers, pet dealers or the transportation of animals commits a Class E crime.

2. Civil penalty. A pet dealer commits a violation for which a forfeiture not to exceed \$1,000 per violation may be adjudged if the dealer:

A. Sells an animal without delivery of the disclosure required in section 4152;

B. Fails to maintain the records required by section 4154;

C. Fails to post the notice required by section 4159;

D. Fails to provide the statement of consumer rights required by section 4160; or

E. Sells an animal in violation of section 4153.

3. Action against license. The department may file an action in Administrative Court to revoke or suspend the license of a pet dealer who violates any provision of this chapter.

See title page for effective date.

CHAPTER 590

S.P. 342 - L.D. 947

**An Act to Amend the Laws
Pertaining to the Regulation of
Denturists**

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

Sec. 1. 32 MRSA §1085, as amended by PL 1993, c. 600, Pt. A, §68, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 5 years in actual practice in the state in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than \$300.

Sec. 2. 32 MRSA §1099, as amended by PL 1993, c. 600, Pt. A, §85, is further amended to read:

§1099. Endorsement

The board may at its discretion, without examination, issue a license to an applicant to practice dental hygiene who furnishes proof satisfactory to the board that the dental hygienist has been duly licensed to practice in another state after full compliance with the requirements of its dental laws, except that the professional education may not be less than is required in this State. The board may require letters of reference as to ability. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or

members of the board prior to being issued a license. Every license so given must state upon its face that it was granted on the basis of endorsement. The fee for that license must be determined by the board, but may not be more than \$100.

Sec. 3. 32 MRSA §1100-B, sub-§2, as amended by PL 1981, c. 440, §16, is further amended to read:

2. Denturist. "Denturist" means a person ~~licensed under this subchapter to engage~~ engaging in the practice of ~~denture technology under the supervision of a dentist of record~~ denturism.

Sec. 4. 32 MRSA §1100-B, sub-§3, as amended by PL 1993, c. 600, Pt. A, §88, is further amended to read:

3. Practice of denturism. "Practice of ~~denture technology~~ denturism" means only:

A. The taking of denture impressions and bite registration for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing of a complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch or arches;

B. The fitting of a complete upper or lower prosthetic denture, or both, to an edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of dentures; and

C. The procedures incidental to the procedures specified in paragraphs A and B, as defined by the board.

Sec. 5. 32 MRSA §1100-C, as amended by PL 1995, c. 353, §§9 and 10, is further amended to read:

§1100-C. Rules

1. Rules required. ~~Not later than May 1, 1996, the~~ The board shall adopt rules relating to the licensing of denturists necessary to implement this subchapter. Rules adopted may pertain, but are not limited to, continuing education, statement of oral conditions and other record retention requirements, precicensure permits and the specification of other procedures incidental to the practice of denturism.

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.~~

5. Temporary denturist permit. The board may issue temporary permits to persons who demonstrate to the satisfaction of the board a minimum of 10 years, in some combination of training and experience in denture mechanics or technology or as a denture laboratory technician. The board shall keep a record of supervising dentists and may charge the applicant an annual permit fee that may not exceed \$25. A permit holder must practice denturism under the direct supervision of a dentist. The board may not issue a permit under this provision after January 1, 2000.

Sec. 6. 32 MRSA §1100-D, as amended by PL 1993, c. 600, Pt. A, §89, is further amended to read:

§1100-D. Examinations

1. Authority. The board is authorized to prepare and give examinations in the area of ~~denture technology~~ denturism for the purpose of licensing denturists. All examinations prepared and given under this subchapter may be prepared and given by the full board ~~or~~ by an appointed subcommittee of the board or by an entity authorized by the board. The board may also recognize a nationally or regionally administered examination given at least annually for applicants to practice ~~denture technology~~ denturism in the State.

1-A. Examination content. Denturist examinations must consist of a clinical examination and a written examination concerning, but not limited to, dental materials, denture technology, United States Department of Health and Human Services Centers for Disease Control guidelines, basic anatomy and basic pathology.

2. Eligibility for examination. ~~A person is eligible to take the examination pursuant to subsection 1 who:~~

A. ~~Is 18 years of age or older;~~

B. Is a high school graduate; and

C. ~~Has successfully completed a minimum of 2 years of training in denture technology and related areas, as approved by the board, or has demonstrated equivalent training and experience, as determined by the board.~~

2-A. Eligibility for examination. Eligibility for taking the examination pursuant to subsection 1 is determined as follows:

A. Until January 1, 2000, a person is eligible to take the denturism examination if that person:

(1) Is a high school graduate or has obtained high school equivalency;

(2) Has completed and can demonstrate to the satisfaction of the board a minimum of 10 years in some combination of training and experience in denture mechanics or technology or as a denture laboratory technician; and

(3) Has successfully completed one postsecondary course in basic human anatomy and physiology and one postsecondary course in basic pathology. The courses must be either approved by the board or administered by an institution accredited by an agency approved by the board; or

B. A person is eligible to take the examination if that person:

(1) Is a high school graduate or has obtained high school equivalency; and

(2) Has a diploma from a board-approved denturism postsecondary institution or has completed an equivalent denturist educational program approved by the board.

3. Application for examination; fee. An eligible person desiring to take ~~the~~ an examination in order to become licensed as a denturist shall make a written application to the board to take the examination. This application must be accompanied by ~~a~~ an application fee, to be determined by the board, but not to exceed \$100 and an examination fee to be determined by the board that may not exceed the actual cost of the examination. The application fee includes the fee for the initial license and is nonrefundable.

4. Additional examinations; fee. An applicant failing to pass ~~the~~ an examination is entitled to ~~at least one additional examination and shall pay a reexamination~~ upon payment of the examination fee set by the board. If an applicant has failed 3 examinations, the board may require the applicant to complete additional educational requirements prior to reexamination.

Sec. 7. 32 MRSA §1100-E, as amended by PL 1993, c. 600, Pt. A, §90, is further amended to read:

§1100-E. Licenses; endorsement

1. Authority. The board has the authority to issue licenses to qualified persons to practice ~~denture technology~~ denturism pursuant to this subchapter.

2. License issued. The board shall issue a license for the practice in this State to each person who has passed ~~the~~ an examination under section 1100-D. This license authorizes the licensee to practice as a denturist in the State ~~for the year in which it is issued~~ until the expiration date that appears on the license.

3. Renewal; renewal fee. After a license has been issued under subsection 2, and on or before January 1st of odd-numbered years, a denturist must pay to the board a license renewal fee of not more than \$100 to be determined by the board in order to renew the license and to continue to be authorized to practice as a denturist in the State or 1/2 the biennial licensure fee if application is made in an even-numbered year.

After the requirements for a license renewal, including any necessary continuing education, have been met, a renewal card of the denturist's license ~~for that year~~ must be issued, which the denturist shall place beside or attach to the denturist's initial license. Denturists who have not paid as provided by January 1st must be reinstated upon payment of a fee, to be determined by the board, of not more than \$50 if paid by February 1st. A license to practice is automatically suspended on February 1st and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than \$100.

4. Endorsement. The board ~~may~~, at its discretion, without examination, may issue a license to an applicant to practice as a denturist who furnishes proof satisfactory to the board that the denturist has been licensed to practice and has actively practiced for a period of 5 years in another state or Canadian province after full compliance with the requirements of its dental laws, if the licensure requirements are, in all essentials, at least equivalent to those of this State. The board may require letters of reference about the denturist. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board, or members of the board, prior to being issued a license. Every license so given must state upon its face that it was granted on the basis of endorsement. The fee for the license is may not exceed \$100.

4-A. Duplicate license. ~~An applicant for a duplicate license granted~~ A licensee must be issued a

duplicate license by the board for a fee of \$15 upon ~~proof attestation~~ of loss of the original ~~shall pay a fee of \$15.~~

5. Additional prohibitions. A denturist may not:

A. Falsely claim to be a licensed dentist or allow another to falsely represent the denturist as a licensed dentist;

~~B. Perform otherwise than at the direction and under the direct supervision of a dentist licensed by the board and practicing in the State. Direct supervision requires the dentist to be on the same premises as the denturist;~~

B-1. Practice denturism on a person without having first received a statement of current oral conditions dated and signed by a licensed dentist no more than 30 days prior to the initiation of treatment. The statement must stipulate that the person's oral cavity is substantially free from disease and structurally sufficient to receive a denture or dentures. This statement remains effective for one year from the date of signature for the purpose of any adjustments or alterations necessary on the denture or dentures for which the statement was originally issued;

C. Perform a task beyond the denturist's competence; or

D. Administer, dispense or prescribe a medication or controlled substance.

6. Mental or physical examination. For the purposes of this subsection, by the application for and acceptance of the license, a licensed denturist is deemed to have given consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a denturist may be suffering from a mental illness that may be interfering with the competent practice of ~~denture technology denturism~~ or from the use of intoxicants or drugs to an extent that they are preventing the denturist from practicing ~~denture technology denturism~~ competently and with safety to the patients. A denturist examined pursuant to an order of the board does not have the privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical exam requires the Administrative Court to immediately order the license of the denturist suspended until the denturist submits to the examination.

Sec. 8. 32 MRSA §1100-E-1 is enacted to read:

§1100-E-1. Continuing education

As a condition of a license renewal, a denturist licensee shall submit evidence of successful completion of 20 hours of continuing education consisting of board-approved courses completed within the 2 years preceding the application for renewal. The board shall proportionally reduce the continuing education hours required for denturists who have been licensed for less than a 2-year period upon the date of renewal.

Sec. 9. 32 MRSA §1100-G, as amended by PL 1993, c. 600, Pt. A, §91, is repealed.

Sec. 10. Denturist. By January 1, 2001 the Commissioner of Professional and Financial Regulation shall make a recommendation to the joint standing committee of the Legislature having jurisdiction over professional regulatory boards as to whether a licensed denturist should be included on the Board of Dental Examiners and the committee may submit legislation to implement its conclusion regarding this subject.

Sec. 11. Revision clause. Wherever in the Maine Revised Statutes, Title 32, chapter 16 the words "denture technology" appear or reference is made to those words, they are amended to read and mean "denturism," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 591

H.P. 1028 - L.D. 1443

An Act to Identify New Federal Mandates

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

Sec. 1. 5 MRSA §1670, as repealed and replaced by PL 1981, c. 534, Pt. D, is repealed and the following enacted in its place:

§1670. Notification procedure for new federal mandates

Every agency and department of the State shall submit to the State Budget Officer a list of any new laws, new regulations or other actions that may require the State to comply with any new federal mandate in the current biennium or the next biennium.

Each item listed must include how the mandate is funded, the required implementation date, the citations

or rulings authorizing the mandate and a brief description of the intended purpose of the mandate.

On or before January 1st of each year, the State Budget Officer shall compile a complete list of new federal mandates and distribute it to each member of the Legislature and to the Director of the Office of Fiscal and Program Review.

See title page for effective date.

CHAPTER 592

H.P. 1242 - L.D. 1702

An Act to Require That Diabetes Supplies and Self-management Training be Covered by Health Insurance Policies

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

Sec. 1. 24 MRSA §2332-F is enacted to read:

§2332-F. Coverage for diabetes supplies

All individual and group nonprofit hospital and medical services plan policies and contracts and all nonprofit health care plan policies and contracts must provide coverage for the medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the out-patient self-management training and educational services used to treat diabetes, if:

1. Certification of medical necessity. The subscriber's treating physician or a physician who specializes in the treatment of diabetes certifies that the equipment and services are necessary; and

2. Provision of medical services. The diabetes out-patient self-management training and educational services are provided through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

Sec. 2. 24-A MRSA §2754 is enacted to read:

§2754. Coverage for diabetes supplies

All individual health 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 the medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the out-patient self-

management training and educational services used to treat diabetes, if:

1. Certification of medical necessity. The insured's treating physician or a physician who specializes in the treatment of diabetes certifies that the equipment and services are necessary; and

2. Provision of medical services. The diabetes out-patient self-management training and educational services are provided through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

Sec. 3. 24-A MRSA §2847-E is enacted to read:

§2847-E. Coverage for diabetes supplies

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 the medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the out-patient self-management training and educational services used to treat diabetes, if:

1. Certification of medical necessity. The insured's treating physician or a physician who specializes in the treatment of diabetes certifies that the equipment and services are necessary; and

2. Provision of medical services. The diabetes out-patient self-management training and educational services are provided through ambulatory diabetes education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

Sec. 4. 24-A MRSA §4240 is enacted to read:

§4240. Coverage for diabetes supplies

All health maintenance organization individual and group health contracts must provide coverage for the medically appropriate and necessary equipment, limited to insulin, oral hypoglycemic agents, monitors, test strips, syringes and lancets, and the out-patient self-management training and educational services used to treat diabetes, if:

1. Certification of medical necessity. The enrollee's treating physician or a physician who specializes in the treatment of diabetes certifies that the equipment and services are necessary; and

2. Provision of medical services. The diabetes out-patient self-management training and educational services are provided through ambulatory diabetes

education facilities authorized by the State's Diabetes Control Project within the Bureau of Health.

Sec. 5. Applicability. This Act applies to all policies and contracts executed, delivered, issued for delivery, continued or renewed on or after the effective date of this Act. All policies and contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 593

S.P. 628 - L.D. 1635

An Act to Amend the Law Concerning Tobacco Use by Juveniles

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

Sec. 1. 22 MRSA §1553, sub-§4, ¶A, as enacted by PL 1995, c. 470, §9 and affected by §19, is amended to read:

A. The sale or transfer of stock of a corporate licensee whose stock is not publicly traded that results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee;

Sec. 2. 22 MRSA §1553, sub-§4, ¶A-1 is enacted to read:

A-1. The sale or transfer of stock of a corporate licensee whose stock is publicly traded that results in the sale or transfer of more than 51% of the voting shares of the corporate licensee;

Sec. 3. 22 MRSA §1555, sub-§1, ¶B, as enacted by PL 1995, c. 470, §9 and affected by §19, is amended to read:

B. It is an affirmative defense to prosecution under this subsection that the defendant sold or distributed cigarettes, cigarette paper or any other tobacco product to a person under 18 years of age who furnished fraudulent proof of age.

Sec. 4. 22 MRSA §1556-A, sub-§2, as enacted by PL 1995, c. 470, §9 and affected by §19, is repealed and the following enacted in its place:

2. Enforcement; jurisdiction. Enforcement of criminal offenses may be carried out by written summons pursuant to Title 17-A filed in the District Court. Enforcement of civil violations set forth in section 1555, subsection 2 may be carried out by complaint filed in District Court. All other civil

violations under this chapter are within the jurisdiction of the Administrative Court pursuant to section 1557, subsection 1.

Sec. 5. 22 MRSA §1556-A, sub-§3, as enacted by PL 1995, c. 470, §9 and affected by §19, is repealed.

Sec. 6. 22 MRSA §1557, sub-§3 is enacted to read:

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.

See title page for effective date.

CHAPTER 594

S.P. 688 - L.D. 1757

An Act to Clarify and Amend Provisions of the Workers' Compensation Act Relating to Workers' Compensation Self- insurance

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

Sec. 1. 24-A MRSA §601, sub-§16, ¶A-1 is enacted to read:

A-1. For filing application for authority to self-insure under Title 39-A, section 403, subsection 16, including all documents submitted as part of the application \$500;

Sec. 2. 39-A MRSA §403, sub-§5, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

A. Any group of employers may adopt a plan for self-insurance, as a group, for the payment of compensation under this Act to their employees. ~~No~~ A group may not be approved to operate a self-insurance plan in the form of a corporation, partnership or limited liability company. Under a group self-insurance plan the group shall assume the liability of all the employers within the group and pay all compensation for which the employers are liable under this chapter. When the plan is adopted, the group shall furnish satisfactory proof to the Superintendent of Insurance of its financial ability to pay ~~such~~ the compensation for the employers in the group and its revenues, their source and assurance of

continuance. The superintendent shall require the deposit with the board of such securities as the superintendent determines necessary of the kind prescribed in subsection 9 or the filing of a bond issued by a surety company authorized to transact business in this State, in an amount to be determined to secure its liability to pay the compensation of each employer as above provided in accordance with subsection 9. ~~Such~~ The surety bond must be approved as to form by the superintendent. The superintendent may also require that any agreements, contracts and other pertinent documents relating to the organization of the employers in the group be filed with the superintendent at the time the application for group self-insurance is made. The application must be on a form prescribed by the superintendent. The superintendent has the authority to deny the application of the group to pay ~~such~~ the compensation for failure to satisfy any applicable requirement of this section. The superintendent shall approve or disapprove an application within 90 days. The group qualifying under this paragraph is referred to as a self-insurer.

Sec. 3. 39-A MRSA §403, sub-§6, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. Each individual self-insured employer, except ~~those~~ an employer utilizing an actuarially fully funded trust pursuant to subsection 3, is required to obtain an actuarial evaluation of undischarged claims and claims settlement liabilities at least once every 3 years, unless the requirement is waived by the superintendent. The superintendent may waive the triennial actuarial evaluation if the number of outstanding claims is not of sufficient volume to permit a credible actuarial analysis. This review and evaluation must be performed by a casualty actuary who is a member of the American Academy of Actuaries. Upon approval to self-insure, the Superintendent of Insurance shall indicate the deadline for that self-insurer to complete an actuarial review. In addition to this triennial review, the superintendent may require the reserves and liabilities of a self-insurer to be reviewed and evaluated as often as the superintendent determines necessary.

Any self-insurer that develops an imputed annual standard premium not exceeding \$50,000 and demonstrates that it has provided security for its workers' compensation exposures in an amount that is at least 135% of its case-based claims reserves, as evaluated annually, is excused from providing an actuarial evaluation in any year in which these conditions are satisfied. For the pur-

poses of this subsection, "case-based claims reserves" means undischarged claims that have arisen during the period of self-insurance and of which the employer has had formal notice. This exception may not be construed to limit the superintendent's authority to require an actuarial evaluation when the superintendent determines one is necessary.

Sec. 4. 39-A MRSA §403, sub-§8, ¶A, as amended by PL 1995, c. 150, §1, is further amended to read:

A. The bond ~~or~~ security deposit or letter of credit 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 or letter of credit 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~~ reinsurance 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, letter of credit 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, from the value of the letter of credit or from the market value of securities deposited an amount not exceeding demonstrated working capital in such current statement of financial condition; ~~the~~ The bond, letter of credit or deposit must be at least \$100,000. An employer organized as a sole proprietorship, partnership or limited liability company is not eligible to deduct its amount of demonstrated working capital from the value of the posted security. A limited liabil-

ity company may be eligible to deduct its amount of demonstrated working capital from the value of the posted security pursuant to rules adopted by the superintendent.

Self-insurers that are unable to meet the preceding standards shall deposit acceptable funds, a letter of credit 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, letter of credit 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 not exceed one year from the deadline for compliance as stated in the notice given to the self-insurer.

A bond ~~or~~ security deposit or letter of credit 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~~ A judgment creditor other than claimants for benefits under this Act ~~has~~ does not have a right to levy upon the self-insurer's assets held in deposit pursuant to this paragraph.

Sec. 5. 39-A MRSA §403, sub-§12, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

12. Qualifications for claims personnel. Persons who investigate, settle or negotiate the settlement of claims on behalf of self-insurers or employees of self-insurers are required to be licensed as insurance adjusters pursuant to Title 24-A, chapter 17, subchapters I and ~~IV~~ V.

Sec. 6. 39-A MRSA §403, sub-§14, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by

§§9 to 11, is repealed and the following enacted in its place:

14. Reportable events; termination of self-insurance authority; application for continuing self-insurance authority and nonrenewal or revocation order. A self-insurer must report the occurrence of events as required by this subsection. An employer may elect to voluntarily terminate its authority to self-insure at any time or may make application for continuing authority to self-insure subject to the requirements of this subsection and any rules adopted by the Superintendent of Insurance. The superintendent may make a determination that an employer's authority to self-insure has terminated in accordance with this subsection and any rules adopted by the superintendent or may grant approval of an application for continuing self-insurance authority. For the purposes of this subsection, "employer" includes a successor employer assuming all workers' compensation liabilities of an approved self-insured employer as a result of the occurrence of one of the events in paragraph A.

A. In order for the superintendent to make a determination as to whether the occurrence of an event results in a termination of an individual employer's self-insured plan or results in a need for modification of the terms and conditions of the plan, an approved self-insurer must report any of the following events to the superintendent at least 45 days in advance of the event's occurrence, if known, or no later than 10 days after the event's occurrence, if not known in advance:

- (1) The sale of 20% or more of the common stock or net assets of the self-insurer;
- (2) A division of the business;
- (3) A spin-off of the business;
- (4) A leveraged buyout of the business;
- (5) A reorganization of the business;
- (6) A change in business form;
- (7) An acquisition by or merger of the business with another entity;
- (8) A change in a partnership agreement;
- (9) A change in the membership or managers of a limited liability company;
- (10) Dissolution of a partnership or a limited liability company;
- (11) Cessation of business in the State; or

(12) Any other event affecting the ownership of the business or the structure of the business as identified in rules adopted by the superintendent.

Notwithstanding any other provision of this paragraph, an employer that elects to apply to continue to self-insure under paragraph C must notify the superintendent 45 days in advance of the event's occurrence and must file an application for continuing authority to self-insure with the superintendent 30 days in advance of the event's occurrence. At the discretion of the superintendent and if good cause is shown, an employer may submit an application to continue to self-insure less than 30 days in advance of the event's occurrence.

B. If a self-insured employer elects to terminate its self-insurance program, or a portion of its program, it must submit written notice and a written termination plan to the superintendent at least 30 days in advance of the proposed termination date. In the event that a self-insurer elects to terminate its approval in this State without filing a plan acceptable to the superintendent, the superintendent shall issue an order prescribing the terms and conditions of the termination. The termination plan must specify, but is not limited to, procedures for claims handling, reservation of assets or other security acceptable to the superintendent to be maintained in the State to discharge claims liabilities and other obligations under this Act and a description of how ultimate reserves were determined. The termination plan must contain a written agreement that the self-insurer continues to be subject to informational filings respecting changes in ownership, financial condition, and actuarial evaluation of claims, claims expense reserves and loss transfers when determined necessary by the superintendent to ensure that claims are adequately secured. The plan must also comply with the terms and conditions prescribed by rule by the superintendent. To protect the interests of claimants, the superintendent may require a further deposit to be held in trust by the Treasurer of State or may require full funding of workers' compensation liabilities.

C. If the self-insured employer and any successor employer elect to continue to self-insure after the occurrence of an event in paragraph A, the employer and any successor employer must file notice of intent to continue to self-insure with an application for continuing authority to self-insure. In order to qualify to file for continuing self-insurance authority, any successor employer must assume 100% of the liabilities of the prede-

cessor self-insured employer and must show that the business in the State remains substantially the same.

(1) The notice of intent and application to continue to self-insure must be received by the superintendent 30 days prior to the event's occurrence. The application must be made on a form approved by the superintendent and include the application fee required in Title 24-A, section 601. Within 7 days of receipt by the superintendent of the application to continue to self-insure, the employer and any successor employer must provide all information requested by the superintendent to allow the superintendent to make a determination under this section.

(2) While the application is pending, the superintendent may request any other information from the applicant determined by the superintendent to be necessary for review of the application. The applicant must promptly provide any additional information upon request in the most expeditious manner.

(3) While the application is pending and during the 30-day period following a denial of an application for continuing self-insurance authority, the employer and any successor employer must maintain the security and reinsurance as required by the employer's certificate of authority, must continue to comply with all other provisions of the employer's certificate of authority and must provide any additional security determined by the superintendent to be necessary under the circumstances. During the application period, the self-insurance authority of the employer continues, consistent with the terms and conditions of the employer's certificate of authority.

(4) Failure to provide the information when requested or failure to comply with the terms and conditions of the employer's certificate of authority or with any additional conditions prescribed by the superintendent will result in automatic termination of the employer's authority to self-insure and the issuance of an order by the superintendent that prescribes the terms and conditions of a termination plan.

D. The superintendent shall notify the employer in writing within 30 days of receipt of all requested information whether the employer's ap-

plication for continuing self-insurance authority is approved or denied. The superintendent's notice must specify the reasons for the denial or must specify the terms and conditions for continuing self-insurance authority as prescribed by this section and any rules adopted by the superintendent.

(1) In making a determination, the superintendent must consider, among other things, whether the successor employer has assumed 100% of the workers' compensation liabilities of the employer, whether the successor employer qualifies for self-insurance authority pursuant to subsection 3 and whether the successor employer maintains substantially the same business operations as the predecessor self-insured employer. The superintendent may also consider, among other things, whether the successor employer employs a substantially greater number of employees than did the predecessor employer. For purposes of this subparagraph, the successor employer has assumed 100% of the workers' compensation liabilities of the employer if the successor employer is unconditionally liable for payment of all benefits that are the obligations of the self-insured employer, regardless of date of injury and notwithstanding agreements for reimbursement from reinsurers or other entities agreeing to reimburse the successor employer for payments associated with self-insurance obligations.

(2) If the superintendent denies the application, the effective date of the termination is 30 days from the date of the superintendent's notice. The self-insurer may request a hearing on this decision within 30 days from the date of the notice. Upon a request for hearing, there is no automatic stay of the superintendent's decision, but the effective date of termination may be stayed by order of the superintendent. Prior to the effective date of the termination, the employer must file a termination plan consistent with paragraph B. After denial of an application, a successor employer may apply for authority to self-insure its workers' compensation obligations pursuant to this section.

E. If at any time the superintendent determines that a self-insurer has failed to notify the superintendent of the occurrence of any of the events identified in paragraph A, the self-insurer may be subject to penalties pursuant to Title 24-A, section 12-A, if it is determined that the occurrence of the event had a substantial impact on the fi-

nancial condition of the self-insured employer. As soon as the superintendent notifies the self-insurer that the superintendent has determined that the self-insurer failed to notify the superintendent of the occurrence of any of these events, the self-insurer must comply with this subsection.

F. If a self-insurer's approval is revoked or not renewed pursuant to subsection 6 or 13, the superintendent must issue an order that prescribes terms and conditions related to the termination of the plan. The terms of the order must conform to, but need not be limited to, the requirements of paragraph B.

G. Any order issued pursuant to this subsection, including an order directing a self-insurer to produce relevant information, may be enforced as provided by Title 24-A, section 214.

H. A self-insurer approved by the superintendent to continue self-insurance authority under paragraph D is not subject to assessments as a new member of the Maine Self-Insurance Guarantee Association. The self-insurer is subject to applicable annual assessments or postinsolvency assessments levied by the Maine Self-Insurance Guarantee Association.

(1) This paragraph applies to all employers authorized by the superintendent to self-insure on or after September 18, 1981. Prior to October 31, 1996, an employer that would have qualified as a successor employer under this subsection may apply for a refund or partial refund of money paid as a new member assessment to the Maine Self-Insurance Guarantee Association on a form approved by the Maine Self-Insurance Guarantee Association. To qualify for a refund, the successor self-insurer must show that it would have qualified for continuing self-insurance authority under this subsection and that it assumed 100% of the workers' compensation liabilities of the former self-insurer. The Maine Self-Insurance Guarantee Association shall review the application and submit a recommendation to the superintendent. The superintendent shall approve or disapprove the application for a refund within 30 days. If the refund is approved, assessment money paid by the successor employer to the Maine Self-Insurance Guarantee Association must be refunded without interest. If such a refund would cause the fund to be reduced below \$2,000,000, the Maine Self-Insurance Guarantee Association shall establish an

equitable schedule for the payment of the refund. This subparagraph is repealed October 31, 1996, and no further applications for refunds may be accepted.

I. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 7. 39-A MRSA §404, sub-§2, ¶¶D and E are enacted to read:

D. In determining membership in the association for the purposes of annual postinsolvency assessments, a successor employer approved for continuing self-insurance authority under section 403, subsection 14 or a successor employer qualifying and receiving a refund under section 403, subsection 14, paragraph H, subparagraph (1) is deemed to be a member of the association from the date of the former employer's initial self-insurance authorization.

E. In determining membership in the association for the purposes of annual or postinsolvency assessments, an employer that ceases to be an approved self-insurer under this Act at the time an insolvency occurs or has occurred, or during the 36-month period immediately preceding an insolvency, continues to be a member of the association for the purposes of annual or postinsolvency assessments even if that employer is acquired or merges with another entity, dissolves, ceases to do business in the State or otherwise changes business form resulting in a new legal entity. An employer qualifying for membership under this paragraph shall notify the Maine Self-Insurance Guarantee Association of all changes affecting ownership and provide information necessary for the association to be able to levy assessments. In addition to any other remedies provided by law, the superintendent is authorized to issue an order amending the terms and conditions of the termination plan of any former self-insurer in order to enforce this paragraph.

Sec. 8. 39-A MRSA §404, sub-§4, ¶A, as amended by PL 1995, c. 398, §5, is further amended by amending subparagraph (3) to read:

(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 subpara-

graph (2), 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), division (f) and interest income. In the event the fund drops below \$2,000,000, and if the association determines it necessary in order to carry out the purpose of this section, the association is authorized to levy annual assessments as required in subparagraph (2) in addition to postinsolvency assessments as required by paragraph C. 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;

See title page for effective date.

CHAPTER 595

H.P. 1252 - L.D. 1714

An Act to Establish a Sea Urchin Management Plan

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

Whereas, more than 38,000,000 pounds of sea urchins having a total landed value of nearly \$35,000,000 were harvested in Maine's coastal waters during 1994; and

Whereas, sea urchins are among the 3 highest valued fisheries in the State; and

Whereas, this pressure on the sea urchin resource is rapidly depleting the resource; and

Whereas, the continuation of the sea urchin fishery depends on the maintenance of sustainable yields; 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-I, sub-§57-B is enacted to read:

<u>57-B. Marine</u>	<u>Sea Urchin</u>	<u>None</u>	<u>12 MRSA</u>
<u>Resources:</u>	<u>Zone</u>		<u>§6749-X</u>
<u>Zones</u>	<u>Council</u>		

Sec. 2. 12 MRSA §6749-N, as amended by PL 1995, c. 392, §6, is further amended to read:

§6749-N. Closed areas; 1995 to 1999

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~~ May 1st to ~~August~~ July 31st. 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~~ July 31st. 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.

Sec. 3. 12 MRSA §6749-O, sub-§§1 and 2, as enacted by PL 1995, c. 392, §7, are amended to read:

1. Handfishing and dragging licenses. ~~The~~ Except as provided in subsections 3 and 4, 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~~ Except as provided in subsections 3 and 4, 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~~ the previous calendar year 1995. 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. A person who is issued a sea urchin hand-raking and trapping license may not be issued a handfishing sea urchin license or a sea urchin dragging license in the same calendar year.

Sec. 4. 12 MRSA §6749-P, as amended by PL 1995, c. 392, §8, is further 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. In calendar years 1997 and 1998, a person may not change from the zone in which the person harvested sea urchins in the previous calendar year unless the change is authorized in accordance with section 6749-Z. 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.

Sec. 5. 12 MRSA §§6749-V to 6749-Z are enacted to read:

§6749-V. Dragging closure

Notwithstanding section 6749-N, it is unlawful for a person to fish for or take sea urchins with a drag or any combination of drags in the coastal waters of the State from May 1st to September 30th.

§6749-W. Open days

1. Prohibition. It is unlawful for a person to fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

2. Designation of open days; Zone 1. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 1 under section 6749-N, subsection 1:

A. One hundred and fifty days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 150 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

3. Designation of open days; Zone 2. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall by rule establish, within that area designated Zone 2 under section 6749-N, subsection 2:

A. One hundred and seventy days between August 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins by hand, trap or rake. The commissioner is not required to designate the days in consecutive order; and

B. Up to 170 days between October 1st and April 30th of the following calendar year during which a person may fish for or take sea urchins with a drag or any combination of drags. The commissioner is not required to designate the days in consecutive order.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§6749-X. Sea Urchin Zone Council

1. Appointment; composition. The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of 18 members. The commissioner shall appoint the members as follows:

A. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 1;

B. Three sea urchin harvesters who hold a current handfishing sea urchin license for Zone 2;

C. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 1;

D. Three sea urchin harvesters who hold a current sea urchin draggers license for Zone 2;

E. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 1;

F. One sea urchin processor who holds a current wholesale seafood license with a sea urchin processor's permit and whose processing operation is located in Zone 2;

G. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 1;

H. One sea urchin buyer who holds a current wholesale seafood license with a sea urchin buyer's permit and whose base of operation is located in Zone 2; and

I. Two scientists who have expertise in marine resources management.

In making appointments under paragraphs A, B, C and D, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

2. Term. Council members serve for 2 years and continue serving until a successor is duly appointed and qualified. When a vacancy occurs, the commissioner shall fill the vacancy by appointing a member from the same category of members listed in subsection 1 as the member who vacated the council.

3. Purpose. The council shall make recommendations to the commissioner concerning the designation of open days for the harvesting of sea urchins by

handfishing, dragging, hand-raking and trapping pursuant to section 6749-W.

4. Chair and officers. The council shall annually choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

5. Meetings. The council shall meet at least once each year. The council may also meet at other times at the call of the chair or the chair's designee or the call of the commissioner or the commissioner's designee.

§6749-Y. Penalty

Notwithstanding section 6204, a person who violates or fails to comply with this subchapter commits a Class D crime that is punishable by a fine of not less than \$500. The fine may not be suspended.

§6749-Z. Changing zones; 1997 and 1998

1. Authorization of changes. Beginning in calendar year 1997, a person eligible to purchase a license under section 6749-O who wishes to change the zone in which the person harvests sea urchins may not change zones unless the change is authorized by the commissioner in accordance with this section.

2. Zone change request on application. A person eligible to purchase a license under section 6749-O who wishes to change the zone in which that person was licensed to harvest sea urchins in the previous calendar year must indicate on a sea urchin harvesting license application a preference to change the zone in which the person harvests sea urchins. The commissioner shall stamp each sea urchin harvesting license application with the time and date of submission.

3. Conditions for authorization. The commissioner shall authorize zone change requests for a zone if the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. The total number of authorized change requests for a zone during a licensing year may not exceed the number by which the number of licenses issued for that zone in the previous calendar year is less than the number of licenses issued for that zone in the year before the previous calendar year. The commissioner shall authorize zone change requests in chronological order of requests received under this section.

Sec. 6. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, section 6749-N and enact Title 12, sections 6749-V and 6749-W take effect May 1, 1996.

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

Effective April 2, 1996, unless otherwise indicated.

CHAPTER 596

S.P. 638 - L.D. 1673

An Act to Require the Department of Human Services to Provide Notice and Hearing in Cases Involving Denial of the Application of the Charity Care Guidelines

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

Sec. 1. 22 MRSA §395-B, sub-§1, as enacted by PL 1995, c. 368, Pt. W, §4, is amended to read:

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. The guidelines must include provisions for notice to the public and the opportunity for a fair hearing regarding eligibility for charity care.

See title page for effective date.

CHAPTER 597

H.P. 1265 - L.D. 1740

An Act to Exempt Working Rural Mail Carriers and Taxicab Operators from Certain Provisions of the Seat Belt Law

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

Sec. 1. 29-A MRSA §2081, sub-§3, as repealed by PL 1995, c. 432, §1 and affected by §4, is reenacted to read:

3. Person between 4 and 19. When a person 4 years of age or older, but less than 19 years of age, 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 or in a child safety seat. When a person who is less than 19 years of age is the operator of a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, that operator must be properly secured in a seat belt.

Sec. 2. 29-A MRSA §2081, sub-§3-A, as enacted by PL 1995, c. 432, §2 and affected by §4, is amended to read:

3-A. Other passengers; operators. When a person ~~4~~ 19 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 amended by PL 1995, c. 65, Pt. A, §107 and affected by §153 and Pt. C, §15 and amended by c. 432, §3 and affected by §4, is further amended to read:

4. Enforcement. The following provisions apply to subsections 2, 3 and 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 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.

C. A violation of 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 or 3-A is a traffic infraction. The fine for a violation of subsection 3 or 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. 29-A MRSA §2081, sub-§6 is enacted to read:

6. Exceptions. Notwithstanding subsection 3-A:

A. A rural mail carrier of the United States Postal Service is not required to be secured in a seat belt while engaged in the delivery of mail; and

B. The operator of a taxicab is not responsible for securing in a seat belt a passenger transported for a fee.

See title page for effective date.

CHAPTER 598

H.P. 1253 - L.D. 1722

An Act to Develop the Maine Public Health Improvement Plan

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

PART A

Sec. A-1. 22 MRSA §3-D is enacted to read:

§3-D. Maine Center for Public Health Practice

The department may establish a nonprofit corporation pursuant to the Maine Nonprofit Corporation Act to be known as the Maine Center for Public Health Practice and referred to in this chapter as the "corporation." The purpose of the corporation is to plan, promote and coordinate health services research, training and policy efforts utilizing a consortium of public and private organizations within the State including the public university system. The corpora-

tion's research, evaluation and demonstration efforts may include, but are not limited to, the following:

1. The health of Maine's population. The cause, effects, extent and nature of illness and disability among all or a particular group of the people of this State;

2. The effects of ill health. The impact of personal illness and disability on the economy of this State and the well-being of all or a particular group of the people of this State;

3. Health-related issues. Environmental, laboratory, social and other health-related issues;

4. Health-related knowledge. The health-related knowledge and practices of the people of this State;

5. Health resources. The quality and availability of health resources in this State, including, but not limited to, health care institutions and health professions;

6. Health behaviors. The determinants of health and nutrition practices and status, including, but not limited to, behaviors that are related to health;

7. Access to care. Access to and use of health care services by all or a particular group of the people of this State, including, but not limited to, the use of ambulatory health care services. The access and use may be categorized by specialty and type of practice of the health professional or health facility providing the service; and

8. Public health. Public health policies and programs.

See title page for effective date.

CHAPTER 599

H.P. 1264 - L.D. 1739

An Act Authorizing Officers of Closely Held Corporations to Represent those Corporations before Any Court

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

Sec. 1. 4 MRSA §807, sub-§3, ¶H, as amended by PL 1995, c. 419, §2, is further 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. 2. 4 MRSA §807, sub-§3, ¶I, as enacted by PL 1995, c. 419, §3, is amended 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; or

Sec. 3. 4 MRSA §807, sub-§3, ¶J is enacted to read:

J. For the purposes of defending a civil action filed against a corporation, an officer of the corporation if the corporation is organized in this State and has 2 or fewer shareholders.

See title page for effective date.

CHAPTER 600

H.P. 1269 - L.D. 1744

An Act to Revise the State Active Service Laws

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

Sec. 1. 37-B MRSA §181, as amended by PL 1989, c. 850, §4, is repealed.

Sec. 2. 37-B MRSA §181-A is enacted to read:

§181-A. Authority to activate

1. By order of the Governor. The Governor may order members of the state military forces to active state service in the case of, or imminent danger of, insurrection, invasion, tumult, riot, conspiracy to commit a felony or threat of violence to persons or property or upon the reasonable apprehension thereof; or for the safety of the inhabitants of this State; or, in the case of actual or imminent public disaster, to the aid of any civil authority.

2. By order of a justice or sheriff. In case of, or in the event of imminent danger of, insurrection, invasion, tumult, riot or conspiracy to commit a felony, to offer violence to persons or property or by force to break the laws of this State or the United States, a Justice of the Supreme Judicial Court or a Justice of the Superior Court or a county sheriff may

request in writing aid from a commanding officer in the state military forces. The commanding officer to whom the request is made shall order out, in aid of the civil authorities, all or part of the military forces under that commanding officer's command and shall immediately report to the Adjutant General and to that commanding officer's military superior for further instructions. The commanding officer may receive only general directions from the civil authority requesting the aid and remains strictly responsible to the commanding officer's military superior for the manner in which the troops are used to accomplish the desired end.

3. Upon request of local officials. In the event of an emergency requiring immediate action, the commanding officer, upon written request of the mayor of a city, the municipal officers of a town or a municipality, may order out, for the defense or protection of the community, the forces under the commanding officer's command or any part of those forces. The commanding officer shall immediately report to the Adjutant General and to the commanding officer's immediate commanding officer for further instructions.

4. Drug enforcement duties. The Governor may order Maine National Guard members to active state service to support federal drug enforcement operations under the National Defense Authorization Act of 1989.

5. Military duty by consent. The Governor, or the Governor's designee, may order a member of the Maine National Guard, with that member's consent, to perform active state service of any nature.

Sec. 3. 37-B MRSA §182, as amended by PL 1983, c. 594, §7, is further amended to read:

§182. Proclamation of state of insurrection

Whenever any portion of the state military forces is activated in aid of civilian authority and if, in the Governor's judgment, the maintenance of law and order will thereby be promoted, ~~he may~~ the Governor, by proclamation, may declare the county or municipality receiving the assistance, or any specified portion or combination thereof, to be in a state of insurrection.

In the event of a proclamation of insurrection, and without limiting any other powers of the Governor, whether inherent or conferred by other existing laws, the Governor may issue rules under the emergency rule-making provisions of the Maine Administrative Procedure Act, Title 5, section 8054, ~~which that~~ are reasonable under the circumstances to avert additional damage, destruction, injury or loss of life, including, but not limited to, emergency rules for curfews, the deployment of emergency medical

supplies and facilities, evacuations, the closing of liquor, arms, ammunition, explosives or other stores and facilities, access roads, temporary detours and other things, whether of a same or a different nature.

In the event of the call up of military forces, pursuant to section ~~181~~ 181-A, subsection 1, and without limiting any powers expressly and inherently possessed by or otherwise vested in the Governor as Commander in Chief, the Governor or Adjutant General, as ~~his~~ the Governor's designee, may petition any Superior Court for ex parte temporary restraining orders to restrain unlawful interference with efforts to maintain peace or preserve life and property. The court may grant appropriate temporary relief. Upon issuance of the order, the Governor shall cause prompt notice of the order and its effect to be broadcast, posted, announced or otherwise publicized so as to reach the persons effected. Any person aggrieved by the order is entitled at any time it is in effect to bring a motion for vacating the order. The motion ~~shall~~ must lie in the court from which the order was issued and the moving parties shall serve notice of the motion upon the Governor concurrent with it being filed, but, until vacated, the order ~~shall remain~~ remains effective according to its terms.

Sec. 4. 37-B MRSA §183, as amended by PL 1987, c. 334, is further amended to read:

§183. Human health emergencies

Personnel and equipment of the ~~state military force~~ Maine National Guard may be employed in the case of human health emergencies.

1. Activation of Maine National Guard. In the event of illness, injury, missing persons or loss of life, creating an emergency ~~which that~~ requires specialized personnel or equipment of the ~~state military forces~~ Maine National Guard to prevent human suffering, increased health risk or loss of life, the Governor, or ~~his~~ the Governor's designee, may order into active state service of the State or in aid of any civil authority the necessary personnel and equipment of the ~~state military forces~~ Maine National Guard. Human health emergencies may include medical evacuation and search and rescue under Title 6, section 303 and Title 12, section 7035, which may include providing emergency helicopter airlift service. Any person ordered into active state service of the State, for the purposes of this subsection, ~~shall be~~ is considered a state employee for purposes of the Maine Tort Claims Act and ~~his that person's~~ that person's liability ~~shall be~~ is limited by that Act.

2. Immunity from civil liability. Any In addition to all existing tort immunities enumerated in the Maine Tort Claims Act any person ordered into active state service of the State, for the purposes of this section, is immune from civil liability for damages

to the same extent as any person who renders assistance pursuant to Title 14, section 164.

3. Accounting. At least 30 days before the end of each fiscal year, the Adjutant General shall prepare an accounting of all expenses incurred pursuant to this section since any prior accounting and shall present this accounting to the Commissioner of Human Services for payment pursuant to Title 22, section 3185.

~~**4. Reimbursement.** In addition to other payments authorized by Title 22, section 3185, the Department of Human Services shall, upon receipt of an annual accounting as authorized under this subsection, transfer to the Department of Defense and Veterans' Services a sum, not to exceed \$10,000, from money appropriated pursuant to Title 22, section 3185, as reimbursement for costs of rendering emergency health service.~~

Sec. 5. 37-B MRSA §184, as enacted by PL 1983, c. 460, §3, is amended to read:

§184. Notice for duty

Notices for military duty ~~shall~~ must be given as follows.

1. When given. ~~Notices for state duty at encampments, maneuvers and field instruction shall be given at least 10 days prior to the duty. Notices for other duty may be given when prescribed by the officer issuing the order. Members of the state military forces must receive reasonable prior notice of active state service appropriate to the duty to be performed.~~

2. How given. Notices ~~shall~~ may be given orally or ~~by written notice delivered personally, sent by mail or left at the last and usual place of abode in writing.~~ Orders conspicuously posted during a regular meeting of the unit, not less than 4 days prior to the date fixed in the order, ~~shall be~~ are sufficient.

3. Dates fixed by law. ~~Where~~ When drill dates have been fixed by law, orders or regulations, no further notice is required.

Sec. 6. 37-B MRSA §185, sub-§4, as enacted by PL 1983, c. 594, §10, is amended to read:

4. Rights of a law enforcement officer. A commissioned officer member of the state military forces when called to active duty under section ~~181~~ 181-A, subsection 1, in addition to such other rights conferred by this chapter and otherwise by law, ~~shall have~~ has the rights, authority and immunities of a law enforcement officer.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF

Military Training and Operations

Personal Services	\$100,000
All Other	150,000

Allocates funds to authorize the Department of Defense and Veterans' Services to expend funds received as reimbursement for services provided by the Maine National Guard.

DEPARTMENT OF DEFENSE AND VETERANS' SERVICES

TOTAL \$250,000

See title page for effective date.

CHAPTER 601

H.P. 1306 - L.D. 1787

An Act to Place Penobscot Land in Trust

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

Sec. 1. 30 MRSA §6205, sub-§2, ¶B, as amended by PL 1991, c. 721, §1 and affected by §2, is further amended to read:

B. The first 150,000 acres of land acquired by the secretary for the benefit of the Penobscot Nation from the following areas or lands to the extent that those lands are acquired by the secretary prior to January 31, 2001, are not held in common with any other person or entity and are certified by the secretary by January 31, 2001, as held for the Penobscot Nation:

The lands of Great Northern Nekoosa Corporation located in T.1, R.8, W.B.K.P. (Lowelltown), T.6, R.1, N.B.K.P. (Holeb), T.2, R.10, W.E.L.S. and T.2, R.9, W.E.L.S.; the land of Raymidga Company located in T.1, R.5, W.B.K.P. (Jim Pond), T.4, R.5, B.K.P.W.K.R. (King and Bartlett), T.5, R.6, B.K.P.W.K.R. and T.3, R.5, B.K.P.W.K.R.; the land of the heirs of David

Pingree located in T.6, R.8, W.E.L.S.; any portion of Sugar Island in Moosehead Lake; the lands of Prentiss and Carlisle Company located in T.9, S.D.; any portion of T.24, M.D.B.P.P.; the lands of Bertram C. Tackeff or Northeastern Blueberry Company, Inc. in T.19, M.D.B.P.P.; any portion of T.2, R.8, N.W.P.; any portion of T.2, R.5, W.B.K.P. (Alder Stream); the lands of Dead River Company in T.3, R.9, N.W.P., T.2, R.9, N.W.P., T.5, R.1, N.B.P.P. and T.5, N.D.B.P.P.; any portion of T.3, R.1, N.B.P.P.; any portion of T.3, N.D.; any portion of T.4, N.D.; any portion of T.39, M.D.; any portion of T.40, M.D.; any portion of T.41, M.D.; any portion of T.42, M.D.B.P.P.; the lands of Diamond International Corporation, International Paper Company and Lincoln Pulp and Paper Company located in Argyle; any land acquired in Williamsburg T.6, R.8, N.W.P.; any 300 acres in Old Town mutually agreed upon by the City of Old Town and the Penobscot Nation Tribal Government, provided that the mutual agreement must be finalized prior to August 31, 1991; ~~and~~ any lands in Lakeville acquired by the Penobscot Nation before January 1, 1991; and all the property acquired by the Penobscot Indian Nation from Herbert C. Haynes, Jr., Herbert C. Haynes, Inc. and Five Islands Land Corporation located in Township 1, Range 6 W.E.L.S.

Sec. 2. Effective date. This Act does not take effect unless, within 60 days of the adjournment of the Second Regular Session of the 117th Legislature, the Secretary of State receives written notification by the Tribal Council of the Penobscot Nation that the Penobscot Nation has agreed to the provisions of this Act pursuant to the United States Code, Title 25, Section 1725(e)(1), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives.

See title page for effective date, unless otherwise indicated.

CHAPTER 602

H.P. 1322 - L.D. 1809

An Act Strengthening the Laws That Prohibit the Drugging of Animals Competing in Pulling Events and Livestock Exhibitions

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

Sec. 1. 7 MRSA §74, as repealed and replaced by PL 1987, c. 111, is repealed.

Sec. 2. 7 MRSA §74-A is enacted to read:

§74-A. Certain drugging of animals prohibited

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

A. "Animal" means an animal entered in an event.

B. "Event" means a public pulling competition or livestock exhibition.

C. "Licensed veterinarian" means a person licensed as a veterinarian by the State who is operating under the direction or authority of the department.

D. "Prohibited substance" means:

(1) A stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

(2) Any substance that the commissioner by rule determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal;

(3) A drug, regardless of how harmless or innocuous, that interferes with the detection of any prohibited substance; or

(4) A metabolite or derivative of a prohibited substance.

E. "Trainer" means a person who has the responsibility for the care, training, custody or performance of an animal, including, but not limited to, any person who signs an entry blank for an event.

2. Administration of prohibited substance. A person may not feed, inject, insert or otherwise administer or attempt to administer or instruct, aid or conspire with another person to administer or employ anyone who administers or attempts to administer a prohibited substance to an animal. The commissioner may require that an animal be tested for the presence of a prohibited substance before, during or after an event.

3. Prohibited use or exhibition of drugged animal. An animal that has been administered a prohibited substance may not be used in an event.

4. Animals subject to examination; scope; request for test. An animal entered in an event is

subject to examination under the direction of a licensed veterinarian or an agent of the licensed veterinarian. The licensed veterinarian, with the approval of the commissioner, may appoint technicians and agents to perform duties under this section that are not prohibited by other provisions of law. The examination may include physical, saliva, urine or blood tests or other tests or procedures that the licensed veterinarian considers necessary to carry out the purposes of this section. The licensed veterinarian may examine any of the animals entered in an event if those animals are on the grounds of the event. The licensed veterinarian also may examine an animal withdrawn by the owner or trainer of the animal 24 hours prior to an event for which the animal had been entered.

5. Refusal to submit animal for examination.

An owner or trainer may not refuse to secure or restrain an animal for examination by a licensed veterinarian or a technician or agent of the licensed veterinarian and may not interfere with the restraining or securing of an animal for that examination.

6. Presence of prohibited substance; prima facie evidence. If the chemical analysis of a test performed under subsection 4 indicates the presence of a prohibited substance, it is prima facie evidence that the substance has been administered to the animal. For purposes of this section, each administration of a prohibited substance to an animal and each occasion on which a prohibited substance was administered in violation of this section constitutes a separate violation.

7. Responsibility of owner or trainer for condition of animal; substitute trainer. The owner or trainer, or both, in the absence of substantial evidence to the contrary, is responsible for the condition of the animal, including the presence of a prohibited substance, and is charged with knowledge of all the provisions contained in this section and the regulations adopted pursuant to this section. If a trainer is prevented from performing the trainer's duties, including responsibility for an animal in the trainer's care, by illness or other cause, or is absent from the event where an animal under the trainer's care is entered and stabled, the trainer immediately shall notify the secretary or manager of the event. At the time of notification, the trainer shall specify a substitute trainer and the substitute trainer shall place the substitute trainer's name on the entry blank. The substitute trainer has the same responsibilities as the trainer has for the condition of an animal in that trainer's care.

8. Administrative hearing; suspension. In addition to or in lieu of the civil action authorized by subsection 9, the commissioner may institute an administrative proceeding. If the commissioner

institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter IV, on any alleged violation of this section. Upon giving notice, the commissioner shall prohibit immediately the person against whom the violation is alleged from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision is received, whichever occurs first, exclusive of any delays resulting from continuances requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds a violation of this section, the commissioner shall prohibit that person from competing in any event within the State for a period of 2 years and also exclude the animal from competing in any event within the State for a period of one year.

9. Violation. A person who violates this section is subject to the provisions of this subsection.

A. The following forfeitures may be adjudged and collected by the commissioner in a civil action:

- (1) For the first violation, a forfeiture of not less than \$100 nor more than \$500; or
- (2) For a 2nd or subsequent violation, a forfeiture of not less than \$500 nor more than \$1,000.

B. In addition to the forfeitures specified in paragraph A, the commissioner may suspend the owner or trainer, or both, from all events for a period of not less than 90 days nor more than one year for each violation. A person who participates in an event during the period of suspension commits a violation of this section.

C. The owner of an animal found to have received a prohibited substance in violation of this section forfeits all prize money and any trophies, ribbons and points won at an event by the drugged animal. The prize money and trophies, ribbons and points must be redistributed by the general manager of the event in accordance with its rules or bylaws.

10. Therapeutic drugs. This section does not prohibit the administration to an animal of a drug, the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in the event. An animal in an event that receives a medication that contains a prohibited substance is not eligible for the event, unless the following requirements have been met and the facts requested are submitted in writing to the manager of the event.

A. The medication must be therapeutic and necessary for treatment of an illness or injury.

B. The animal must be withdrawn from the event for a period of at least 24 hours after medication has been administered.

C. Only a licensed veterinarian or a trainer acting under the direction of the licensed veterinarian may administer medication. The trainer may administer medication under the direction of the licensed veterinarian if the licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal, has sufficient knowledge of the animal to make a general or preliminary diagnosis of the animal and is readily available to care for the animal in the event of an adverse reaction to medication or the failure of a trainer to adhere to a therapy regimen.

D. The amount, strength and mode of administration of medication must be identified.

E. The statement must include the date and time of the administration of medication.

F. The animal must be identified by name, age, sex, color and entry number.

G. The statement must contain the diagnosis and reason for administering medication.

H. The statement must be signed by the person administering medication.

I. The statement must be filed with the general manager of the event within one hour after administration of medication or one hour after the manager of the event returns to duty, if administration is at a time other than during event hours.

J. The statement must be signed by the manager of the event and the time of receipt of the statement recorded on the statement by the manager.

If the chemical analysis of a sample taken pursuant to subsection 4 from the animal treated under this subsection indicates the presence of a prohibited substance and all the requirements of this subsection have been met, the information contained in the statement and any other relevant evidence must be considered at a hearing provided under subsection 8 in determining whether there has been a violation of any provision of this section.

11. Authority of the commissioner to make rules. The commissioner may adopt rules relating to the administration of tests, the care and custody of test samples and all other matters necessary to carry out the purposes of this section.

12. Inapplicability to horse racing. This section does not affect existing laws governing horse racing or affect horse sales or horse auction sales when those sales are solely for the sale of racehorses or breeding stock that are used in the production of racehorses and when those sales are held or conducted on the premises of a racing association under the jurisdiction of, and with the authorization and approval of, the State Harness Racing Commission. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

As used in this subsection, "racehorse" means a live horse, including a stallion, mare, gelding, ridgeling, colt or filly, that is eligible to participate in a horse racing contest in this State where parimutuel racing is permitted under the regulations promulgated by the State Harness Racing Commission. This subsection does not exempt racehorses participating in an event covered by this section.

Sec. 3. 7 MRSA §75, sub-§2, ¶K, as enacted by PL 1987, c. 849, §2, is repealed.

Sec. 4. Transition; rules. Rules adopted pursuant to the Maine Revised Statutes, Title 7, former section 74 remain in effect until rescinded or amended.

See title page for effective date.

CHAPTER 603

H.P. 1295 - L.D. 1777

An Act to Lessen the Penalty for Withdrawal of Farms from the Farm and Open Space Tax Law

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

Sec. 1. 36 MRSA §1109, sub-§5, as amended by PL 1977, c. 467, §10, is further amended to read:

5. Owner obligation. If the owner or owners of any parcel of land subject to taxation under this subchapter fail to submit the schedules under the foregoing provisions of this section, or fail to respond, within 60 days of receipt, to written questions or interrogatories of the assessor, or fail within 60 days of receipt of notice as provided in this section; to appear before the assessor to respond to questions or interrogatories, or fail to provide information after notice duly received as provided under this section, ~~such that~~ owner or owners ~~shall be~~ are deemed to have waived all rights of appeal.

It ~~shall be~~ is the obligation of the owner or owners to report to the assessor any change of use or change of classification of land subject to taxation hereunder by the end of the tax year in which the change occurs and to file ~~annually~~ by April 1st of every 5th year with the assessor a determination of the gross income realized each of the previous year 5 years from acreage classified as "farmland."

If the owner or owners fail to report to the assessor as required by the foregoing paragraph, the assessor ~~may collect such~~ shall assess those taxes as that should have been paid, shall ~~collect~~ assess the penalty provided in section 1112 and shall assess an additional penalty of 25% of the foregoing penalty amount. The assessor may waive the additional penalty for cause.

Sec. 2. 36 MRSA §1112, 2nd ¶, as amended by PL 1989, c. 555, §19, is further amended to read:

For land classified as farmland under this subchapter for less than 5 full years, the penalty ~~shall be~~ is equal to ~~40%~~ the greater of 20% of its assessed fair market value at the time the land is removed from the program or the amount necessary to meet the requirements of the Constitution of Maine, Article IX, Section 8. For land that has been classified as farmland under this subchapter for ~~more than 5 full years but less than 10 full years, the penalty shall be full recapture of the taxes that would have been paid on the land for all the years it was in the program, less all taxes that were paid during those years and interest at the rate set by the town during those years on delinquent taxes.~~ For land that has been classified as farmland under this subchapter for ~~more than 10 full years or more~~, the penalty ~~shall be~~ is the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes. An owner of farmland that has been classified under this subchapter for 5 full years or more may pay any penalty owed under this paragraph in up to 5 equal annual installments with interest at the rate set by the town to begin 60 days after the date of assessment. Notwithstanding section 943, for an owner paying a penalty under this procedure, 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 from the date of the filing of the tax lien certificate instead of 18 months.

See title page for effective date.

CHAPTER 604

S.P. 723 - L.D. 1825

An Act Regarding Survivor Benefits in the Event of Divorce and Remarriage

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

Whereas, current law permits the recipient of a reduced retirement benefit who has named a spouse as beneficiary and who is divorced to change the beneficiary to someone else only if the divorce occurs after retirement; and

Whereas, that law may be contrary to the wishes of recipients of reduced retirement benefits who are divorced before retirement but do not remarry and try to change their beneficiary until after retirement; and

Whereas, it is immediately necessary to amend the law so that such changes may be made in the named beneficiary; 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 §17805-A, as enacted by PL 1991, c. 320, §1, is amended by repealing and replacing the headnote to read:

§17805-A. Divorce

Sec. 2. 5 MRSA §17805-A, first ¶, as enacted by PL 1991, c. 320, §1, is amended to read:

If the recipient of a reduced service retirement benefit under section 17804, subsection 3, 4 or 5 is granted a divorce either after retirement or before a retirement beneficiary is named the following provisions apply.

Sec. 3. 5 MRSA §17805-A, sub-§1, ¶¶A and B, as enacted by PL 1991, c. 320, §1, are amended to read:

A. The ~~original~~ original spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 17804, subsection 3, 4 or 5; and

B. The recipient and the ~~original~~ spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the ~~original~~ spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

Sec. 4. 5 MRSA §18405-A, as enacted by PL 1991, c. 320, §2, is amended by repealing and replacing the headnote to read:

§18405-A. Divorce

Sec. 5. 5 MRSA §18405-A, first ¶, as enacted by PL 1991, c. 320, §2, is amended to read:

If the recipient of a reduced service retirement benefit under section 18404, subsection 3, 4 or 5 is granted a divorce either after retirement or before a retirement beneficiary is named, the following provisions apply.

Sec. 6. 5 MRSA §18405-A, sub-§1, ¶¶A and B, as enacted by PL 1991, c. 320, §2, are amended to read:

A. The ~~original~~ spouse or former spouse who was originally named as retirement beneficiary must have been the sole beneficiary of the reduced retirement benefit under section 18404, subsection 3, 4 or 5; and

B. The recipient and the ~~original~~ spouse or former spouse who was originally named retirement beneficiary must agree to the change of beneficiary. Prior to this agreement, the executive director shall ensure that the ~~original~~ spouse or former spouse who was originally named as retirement beneficiary has been counseled by an employee of the retirement system regarding the financial effect of giving up rights as a beneficiary and has signed a statement that the information has been received and understood.

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

Effective April 2, 1996.

CHAPTER 605

H.P. 1299 - L.D. 1782

An Act to Create the Motor Carrier Training Advisory Board

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

Sec. 1. 5 MRSA §12004-I, sub-§80-A is enacted to read:

<u>80-A.</u>	<u>Motor</u>	<u>Not</u>	<u>29-A</u>
<u>Transport-</u>	<u>Carrier</u>	<u>Autho-</u>	<u>MRSA</u>
<u>ation: Motor</u>	<u>Training</u>	<u>rized</u>	<u>§1356</u>
<u>Carriers</u>	<u>Advisory</u>		
	<u>Board</u>		

Sec. 2. 29-A MRSA §1354, sub-§6, ¶A, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

A. The Secretary of State shall establish the Technical Review Panel that includes representatives from the Department of Education, the Department of Public Safety, the American Automobile Association, the Maine Highway Safety Commission, law enforcement agencies, the insurance industry, the motor carrier industry and a driver education teacher and instructor. The Technical Review Panel shall assist the Secretary of State in developing curriculum and teacher and instructor training and certification.

Sec. 3. 29-A MRSA §1356 is enacted to read:

§1356. Motor Carrier Training Advisory Board

The Motor Carrier Training Advisory Board, as established by Title 5, section 12004-I, subsection 80-A, is created as an advisory board within the Department of the Secretary of State.

1. Membership. The board consists of 11 members appointed to serve 3-year terms as follows:

A. Three members representing the trucking industry, appointed by the Secretary of State;

B. One member who owns 3 or fewer commercial motor vehicles and operates a commercial motor vehicle for a livelihood, appointed by the Secretary of State;

C. One member representing the applied technology centers and applied technology regions, appointed by the Commissioner of Education;

D. One member appointed by the President of the Maine Technical College System;

E. One member appointed by the Commissioner of Public Safety;

F. One member who has experience in motor carrier safety, appointed by the Secretary of State;

G. Two members of the general public, appointed by the Secretary of State; and

H. One member who is a member of the joint standing committee of the Legislature having jurisdiction over transportation matters, appointed jointly by the President of the Senate and the Speaker of the House of Representatives. This member may continue to serve on the board after that person's legislative term of office has expired.

2. Chair. The board shall elect a chair from among its members. The chair shall serve a one-year term.

3. Duties. The board shall:

A. Review the Secretary of State's minimum standards for continuing education and postsecondary instructor qualifications established in accordance with section 1354;

B. Monitor the availability and adequacy of commercial driver postsecondary technical and continuing education courses; and

C. Monitor the availability of block grants and other sources of financial aid that may be available to support commercial driver training and advise the appropriate state officials of those grants and funding sources.

4. Administrative support; expenses. Members serve without compensation or reimbursement for expenses. The Secretary of State shall provide necessary support services.

Sec. 4. Initial appointments. Notwithstanding the Maine Revised Statutes, Title 29-A, section 1356, subsection 1, the terms of initial appointments for the Motor Carrier Training Advisory Board are as follows: three serve for one year, 4 serve for 2 years and 4 serve for 3 years. A person making an initial appointment to the Motor Carrier Training Advisory Board shall submit appointee names to the Secretary of State no later than September 1, 1996. The Secretary of State shall determine the initial term for each appointee.

See title page for effective date.

CHAPTER 606

H.P. 1326 - L.D. 1814

An Act Concerning the Treatment of Ocular Diseases by Optometrists

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

Sec. 1. 32 MRSA §2411, sub-§3, as repealed and replaced by PL 1995, c. 439, §3 and affected by §8, is amended to read:

3. Pharmaceutical agent. "Pharmaceutical agent" means any topical medicinal diagnostic and therapeutical substances for use in the diagnosis, cure, treatment or prevention of ~~glaucoma~~ ocular conditions and diseases, and ~~any topical oral~~ medicinal diagnostic and therapeutical substances and quantities for use in the diagnosis, cure, treatment or prevention of ocular conditions and diseases ~~other than glaucoma~~ under section 2430, subsection 2.

Sec. 2. 32 MRSA §2415, as amended by PL 1993, c. 600, Pt. A, §144, is further amended to read:

§2415. Appointment; tenure; vacancies; removal

The State Board of Optometry, as established by Title 5, section 12004-A, subsection 28 and in this chapter called the "board," consists of 6 persons appointed by the Governor. Five of the appointees must have been resident optometrists engaged in the actual practice of optometry in this State for a period of at least 5 years prior to their appointment and ~~one~~ after the 1999 renewal they must hold advanced therapeutic licenses. One of the appointees must be a consumer member who is a resident of this State and has no pecuniary interest in optometry or in the merchandising of optical products. Appointment is for a term of 5 years. Appointments of members must comply with section 60. A member of the board may be removed from office for cause by the Governor. The board has a common seal.

Sec. 3. 32 MRSA §2417, sub-§6, as enacted by PL 1995, c. 439, §5 and affected by §8, is repealed.

Sec. 4. 32 MRSA §2419-A, as amended by PL 1993, c. 600, Pt. A, §150, is repealed.

Sec. 5. 32 MRSA §2420 is enacted to read:

§2420. Notification to Board of Commissioners of the Profession of Pharmacy

Every year at the completion of the license renewal cycle, the board shall provide to the Board of Commissioners of the Profession of Pharmacy a current listing of all licensees designating licensees

who may prescribe pharmaceuticals and the pharmaceuticals those licensees may prescribe.

Sec. 6. 32 MRSA §2422, as amended by PL 1993, c. 600, Pt. A, §153, is further amended to read:

§2422. Examination; fees; initial licensure

Every individual before beginning the practice of optometry in this State must pass an examination before the board. The board shall provide an opportunity for applicants to take the examination at least twice per year. At the discretion of the board, the examination may consist of tests in basic sciences; in anatomy and physiology of the eye; pathology; practical, theoretical and physiological optics; practical and theoretical optometry; clinical diagnosis and therapeutics; and other phases of optometric knowledge and skill the board determines to be essential. ~~The board shall include an examination on the subject of general and ocular pharmacology as it relates to optometry and the use of pharmaceutical agents for all new applicants for a license. The board shall require that a new applicant pass Parts I, II and III of the National Board of Examiners in Optometry examination, including all sections of the Treatment and Management of Ocular Diseases (TMOD) examination.~~ An individual who has applied to be examined shall appear before the board at the time and place the board designates and, before the examination, shall pay to the board a sum not in excess of \$200 as established by the board. All applicants successfully passing the examination must be licensed to practice optometry. The board may require applicants who have failed to pass the licensure examination 3 times to enroll in a course of continuing education as prescribed by the board.

1. Requirement. All applicants for a therapeutic or advanced therapeutic pharmaceutical license under this section shall submit proof of: compliance with the application requirements set forth in section 2430, subsections 1 and 3.

~~A. Satisfactory completion of a course in general and ocular pharmacology with particular emphasis on the application and use of pharmaceutical agents for the purpose of examination, diagnosis and treatment of conditions of the eye and its adnexa. The course must include a minimum of 100 hours of ocular therapeutics, including at least 25 hours of supervised clinical training and must be taught by an accredited institution and approved by the board; or~~

~~B. Graduation from an accredited optometric institution and passing an examination on therapeutic pharmaceuticals administered by the National Board of Examiners in Optometry; and~~

~~C. Completion of one year of acceptable practice as a licensed optometrist.~~

Sec. 7. 32 MRSA §2423, sub-§1, as amended by PL 1993, c. 600, Pt. A, §154, is further amended to read:

1. Annual renewal. Every licensed optometrist practicing in the State shall pay annually, before the first day of April, ~~pay~~ to the board a license renewal fee not in excess of \$200 as established by the board under section 2417. Beginning July 1, 1999, therapeutic licenses are not renewable.

Sec. 8. 32 MRSA §2426, as amended by PL 1993, c. 600, Pt. A, §157, is further amended to read:

§2426. Educational programs

All optometrists licensed in the State of Maine are required to take annual courses in subjects related to the practice of the profession of optometry, to the end that the utilization and application of new techniques, scientific and technical advances, the use of pharmaceutical agents and treatment of ocular diseases and the achievements of research will assure comprehensive vision care to the public. The length of study is determined by the board, but in no event may the length be less than 15 hours nor exceed 30 hours in any calendar year. Optometrists authorized to use therapeutic pharmaceutical agents shall complete, ~~as part of their annual course work, 5 or more hours of approved transcript quality course work in ocular pharmacology,~~ at least 25 hours of Category 1 continuing education, approved by the American Optometric Association, the American Medical Association, the American Academy of Ophthalmologists or the American Council on Pharmaceutical Education, of which 15 hours must be in diagnosis and treatment of ocular disease. Attendance must be at a course or courses approved by the board and ~~is to be~~ certified to the board upon a form provided by the board and submitted by each optometrist at the time of application to the board for license renewal accompanied by the annual renewal fee. The board shall notify all optometrists licensed in this State of all courses approved by it at least 15 days prior to the offering of each course.

The board ~~is permitted to~~ may waive this continuing education requirement in cases of illness or undue hardship. If an applicant for license renewal fails to comply with this continuing education provision and action has not been taken by the board to waive the requirements because of the causes specified, then the board may not renew the license, except that in its discretion, it may renew the license conditionally with the provision that within 6 months the applicant shall fulfill the requirements.

Sec. 9. 32 MRSA §§2430 and 2430-A are enacted to read:

§2430. Use of therapeutic pharmaceutical agents

An optometrist may not use pharmaceutical agents, except diagnostic agents, unless licensed in accordance with this section.

1. Therapeutic license. An optometrist may use topical therapeutic agents for any purpose associated with ocular conditions and diseases, except for the treatment of glaucoma, if the optometrist has received a therapeutic license in accordance with the following requirements.

A. Licensure requires a review of credentials by the board including the successful completion of a transcript quality course in general and ocular pharmacology. For the purposes of this section, "transcript quality course" means a course given by a regional or professional accrediting organization approved by the Council on Post-secondary Accreditation of the United States Department of Education and approved by the board. The board may not approve a course that does not include a minimum of 100 hours of ocular therapeutics including at least 25 hours of supervised clinical training in the examination, diagnosis and treatment of conditions of the eye and its adnexa. That course must include participation by an ophthalmologist.

B. An applicant must be a graduate from an accredited optometric institution and successfully complete a graded written examination administered by the board or the National Board of Examiners in Optometry, demonstrating competency in the use of therapeutic pharmaceutical agents.

Effective October 1, 1996, the board may not issue new therapeutic licenses.

2. Oral therapeutic agents; use permitted. An optometrist who has received an advanced therapeutic license may use any topical therapeutic pharmaceutical agent, except for the treatment of glaucoma unless the requirements of section 2430-A have been met, and any of the following types and quantities of oral therapeutic pharmaceutical agents for any purpose associated with ocular conditions and diseases:

A. One 10-day supply of oral antibiotics;

B. One 72-hour supply of oral antivirals with referral to a physician;

C. One 72-hour supply of oral antihistamines;

D. One 7-day supply of oral nonsteroidal antiinflammatories; and

E. One 3-day supply of any analgesic identified in schedules III, IV and V as described in the United States Code, Title 21, Section 812.

3. Requirements for advanced therapeutic license. Requirements for an advanced therapeutic license are as follows.

A. Optometrists without a therapeutic license must complete the following:

(1) Licensure requires a review of credentials by the board including the successful completion of a transcript quality course in general and ocular pharmacology. For the purposes of this section, "transcript quality course" means a course given by a regional or professional accrediting organization approved by the Council on Post-secondary Accreditation of the United States Department of Education and approved by the board. The board may not approve a course that does not include a minimum of 100 hours of ocular therapeutics including at least 25 hours of supervised clinical training in the examination, diagnosis and treatment of conditions of the eye and its adnexa. That course must include participation by an ophthalmologist;

(2) An applicant must be a graduate from an accredited optometric institution and successfully complete a graded written examination administered by the board or the National Board of Examiners in Optometry, demonstrating competency in the use of therapeutic pharmaceutical agents; and

(3) Successful completion of a course of at least 25 hours devoted primarily to pharmacology and glaucoma, referred to in this section as the "Lancaster Course," or its board-approved equivalent, and 3 additional hours of a board-approved course in pharmacology dealing solely with antiglaucoma agents. The requirements of this subparagraph may be completed anytime after the 2nd year of optometric study.

B. Optometrists with a therapeutic license must meet the following requirements:

(1) Successful completion of the "Lancaster Course" or a board-approved equivalent course of at least 25 hours devoted primarily to the study of pharmacology and glaucoma. The requirements of

this subparagraph may be completed any time after the 2nd year of optometric study;

(2) Successful completion of 3 didactic hours of a board-approved course in pharmacology dealing solely with antiglaucoma agents; and

(3) Successful passage of the Treatment and Management of Ocular Diseases (TMOD) component of the National Board of Examiners in Optometry examination on or after July 1, 1991.

§2430-A. Treatment of glaucoma

1. Consultation required. In order to be authorized to independently treat glaucoma, an advanced therapeutic licensee must provide evidence to the board of written referrals and consultations with a physician in accordance with this section. For purposes of this section, "physician" means a licensed physician specializing in diseases of the eye. The board shall form a glaucoma consultation subcommittee comprised of 2 optometrists appointed by the board and 2 physicians appointed by the Board of Licensure in Medicine to review evidence of consultations submitted pursuant to this section.

2. Evidence of referrals. Except as provided in subsection 3, advanced therapeutic licensees must provide evidence of a total of 50 glaucoma related referrals to, and consultations with, physicians according to the following criteria.

A. Twenty glaucoma related referrals may be evidenced by retrospective written referrals of patients suspected of having glaucoma to physicians, with written confirmation of each diagnosis by the physician. The retrospective referrals must have occurred between July 1, 1995 and the receipt of the advanced therapeutic license. If the optometrist can not provide evidence of 20 retrospective referrals and confirmations of diagnosis, the balance of the 20 referrals required must be satisfied by engaging in consultations in accordance with the procedure set forth in paragraph B.

B. Thirty glaucoma consultations must be conducted as follows:

(1) A new or existing glaucoma patient is examined and diagnosed by the optometrist;

(2) The optometrist develops a proposed treatment plan and forwards the plan with examination documentation to a physician for consultation;

(3) The physician examines the patient and reviews the optometrist's examination documentation and proposed treatment plan; and

(4) The physician, optometrist and patient mutually agree to and document a treatment plan.

3. Exception for new graduate. An advanced therapeutic licensee who was graduated from an accredited optometric institution within 2 years of applying for the advanced therapeutic license must provide evidence of a total of 30 glaucoma-related consultations with physicians in accordance with the procedure set forth in subsection 2, paragraph B. Recent graduates who have completed a one-year residency program or its equivalent, as determined by the glaucoma consultation subcommittee, may petition the subcommittee to waive the consultation requirement.

Sec. 10. 32 MRSA §2446, as amended by PL 1993, c. 600, Pt. A, §167, is further amended to read:

§2446. Drugs

An optometrist who uses pharmaceutical agents without first having obtained a the appropriate license under ~~section 2419-A~~ this chapter commits a Class E crime.

Sec. 11. Effective date. That section that repeals the Maine Revised Statutes, Title 32, section 2417, subsection 6 takes effect October 1, 1996.

See title page for effective date, unless otherwise indicated.

CHAPTER 607

S.P. 735 - L.D. 1844

An Act Authorizing County Commissioners to Enact Ordinances Concerning Addressing Standards for Enhanced 9-1-1 Services in the Unorganized Territories

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

Whereas, the State is attempting to begin implementation of enhanced 9-1-1 emergency telephone services throughout the State no later than December 1997; and

Whereas, county commissioners have responsibility for providing services to the unorganized

territories and, therefore, have been designated by state public safety officials to assign and maintain physical addresses for the purpose of enhanced 9-1-1 services in the unorganized territories; and

Whereas, there is a question whether this function constitutes a "service" within the Maine Revised Statutes, Title 30-A, section 7501; and

Whereas, the process of physical addressing may take as much as 2 years to complete; 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 §7501, sub-§§6 and 7, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

6. Other services. Any other service ~~which that~~ a municipality may provide for its inhabitants and ~~which that~~ is not provided by the State; ~~and~~

7. Law enforcement. Law enforcement; ~~and~~

Sec. 2. 30-A MRSA §7501, sub-§8 is enacted to read:

8. Enhanced 9-1-1 service. Assigning and maintaining physical addresses specifically for the purpose of statewide enhanced 9-1-1 service. The county commissioners may enact an ordinance to establish the addressing standards and, pursuant to that ordinance, may assign road names to existing and proposed roads and property numbers to existing and proposed year-round and seasonal dwellings or structures and may install signs designating road names.

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

Effective April 2, 1996.

CHAPTER 608

S.P. 739 - L.D. 1847

An Act to Amend the Freedom of Access Laws to Include Advisory Boards and Commissions in the Definition of Public Proceedings

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

Sec. 1. 1 MRSA §402, sub-§2, ¶D, as amended by PL 1991, c. 848, §1, is further amended to read:

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; ~~and~~

Sec. 2. 1 MRSA §402, sub-§2, ¶E, as enacted by PL 1991, c. 848, §1, is amended to read:

E. The board of directors of a nonprofit, non-stock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; ~~and~~

Sec. 3. 1 MRSA §402, sub-§2, ¶F is enacted to read:

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter.

Sec. 4. 1 MRSA §402, sub-§3, ¶¶H and I, as enacted by PL 1991, c. 448, §2, are amended to read:

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; ~~and~~

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; ~~and~~

Sec. 5. 1 MRSA §402, sub-§3, ¶J is enacted to read:

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of

the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization.

Sec. 6. Application. This Act applies to all laws, resolves and Executive Orders effective after the effective date of this Act.

See title page for effective date.

CHAPTER 609

S.P. 764 - L.D. 1876

An Act Concerning the Salmon Aquaculture Monitoring and Research Fund

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

Whereas, the Salmon Aquaculture Monitoring and Research Fund provides valuable services to an essential component of the State's marine resource economy; and

Whereas, the Salmon Aquaculture Monitoring and Research Fund will be repealed on July 1, 1996 unless legislative action is taken to extend the fund; 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-I, sub-§57-B is enacted to read:

<u>57-B.</u>	<u>Maine</u>	<u>Not</u>	<u>12</u>
<u>Marine</u>	<u>Salmon</u>	<u>Autho-</u>	<u>MRSA</u>
<u>Resources</u>	<u>Aquaculture</u>	<u>rized</u>	<u>§6080</u>
	<u>Advisory</u>		
	<u>Council</u>		

Sec. 2. 12 MRSA §6078, as amended by PL 1993, c. 562, §2 and as repealed by PL 1995, c. 176, §1 and affected by §3, is repealed and the following enacted in its place:

§6078. Salmon Aquaculture Monitoring, Research and Development Fund

1. Fund established. All income received by the commissioner under this section must be deposited

with the Treasurer of State, to be credited to the Salmon Aquaculture Monitoring, Research and Development Fund, referred to in this section as the "fund," which is established as a nonlapsing fund. Any interest earned on this money must also be credited to the fund.

3. Production fee assessed. A person producing salmon in aquacultural facilities subject to section 6072 shall pay to the commissioner a fee of 1¢ per pound of whole fish harvested. The person shall pay the fee within 30 days of harvest. Timely payment of the fee is a condition of any lease granted under section 6072 for the production of salmon in net-pen aquacultural facilities. The commissioner may assess a late payment charge on any overdue payments computed at the annual interest rate established by the State Tax Assessor under Title 36, section 186. The commissioner may establish by rule any procedural requirements for collection of the fee including without limitation monthly reporting of harvest amounts and reporting forms. Failure to pay the fee is a civil violation punishable by a civil penalty not to exceed \$1,000.

4. Expenditures; purpose. The commissioner may make expenditures from the fund to develop effective and cost-efficient water quality licensing and monitoring criteria, analyze and evaluate monitoring data and process lease applications. In developing a program of expenditures, the commissioner shall consult with the Maine Salmon Aquaculture Advisory Council established under Title 5, section 12004-I, subsection 57-B. The commissioner may contract for services privately or under memoranda of agreement with other state agencies.

7. Additional revenues. The commissioner may expend annual revenues in excess of the operating expenses of a program under subsection 4 to address matters that the commissioner determines are of an emergency nature to the State's salmon aquaculture industry, to address matters that the commissioner determines are of long-term interest to the State's salmon aquaculture industry or to rebate revenues to all those persons who paid fees under subsection 3. A rebate must be in the same proportion to the total of all rebates as the recipient's fees for that period are to the total of all fees levied for that period. The commissioner shall consult with the Maine Salmon Aquaculture Advisory Council established under Title 5, section 12004-I, subsection 57-B when determining expenditures under this subsection.

8. Reports. On or before February 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over marine resource matters on all expenditures made from the fund in the previous fiscal year and on all work accomplished and planned. The committee

may introduce and report legislation it determines necessary to modify the provisions of this section.

9. Repeal. This section is repealed July 1, 1997.

Sec. 3. 12 MRSA §6080 is enacted to read:

§6080. Maine Salmon Aquaculture Advisory Council

1. Appointment; composition. The Maine Salmon Aquaculture Advisory Council, referred to in this section as the "council" and established by Title 5, section 12004-I, subsection 57-B, consists of 4 members. The commissioner or the commissioner's designee is a nonvoting, ex officio member of the council. The commissioner shall appoint 3 members from the State's salmon aquaculture industry. No more than 2 of the appointed members may represent similar segments of the State's salmon aquaculture industry.

2. Term. Council members serve for 3 years and continue serving until a successor is duly appointed and qualified. In the case of a vacancy, the commissioner shall promptly fill the vacancy.

3. Purpose. The council shall make recommendations to the commissioner concerning expenditures from the Salmon Aquaculture Monitoring, Research and Development Fund for the purposes described under section 6078, subsections 4 and 7.

4. Chair and officers. The council annually shall choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

5. Meetings. The council shall meet at least once each year. It may also meet at other times at the call of the chair or the chair's designee or the commissioner or the commissioner's designee.

6. Repeal. This section is repealed July 1, 1997.

Sec. 4. PL 1995, c. 176, §§1 and 3 are repealed.

Sec. 5. Allocation. The following funds are allocated from the Salmon Aquaculture Monitoring and Research Fund to carry out the purposes of this Act.

1996-97

**MARINE RESOURCES,
DEPARTMENT OF**

**Salmon Aquaculture Monitoring,
Research and Development Fund**

Positions - Other Count (1.0)

Personal Services	\$36,888
All Other	101,253
Capital Expenditures	39,421

TOTAL	\$177,562
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Allocates funds to reestablish one Marine Resources Scientist I position and necessary operating costs for the Salmon Aquaculture Monitoring, Research and Development Fund.

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

Effective April 2, 1996.

CHAPTER 610

H.P. 1327 - L.D. 1818

An Act to Require that Public Schools Permit Participation in Curricular, Cocurricular and Extracurricular Activities for Students Enrolled in Approved Equivalent Instruction Programs

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. 20-A MRSA c. 211, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

EQUIVALENT INSTRUCTION PROGRAMS

§5021. Standards for participation in public schools by students enrolled in equivalent instruction programs

A school administrative unit shall conform to the following standards in making public school resources and services available to a student enrolled in an

equivalent instruction program approved by the commissioner pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (3) for a student otherwise eligible to attend school in that school administrative unit.

1. Participation in regular classes. A student receiving home instruction may enroll in specific day school classes at the appropriate public school if each of the following conditions is met.

A. The student or the student's parent or guardian, on the student's behalf, applies in writing to and receives written approval from the superintendent or the superintendent's designee. Approval may not be unreasonably withheld.

B. The student can demonstrate prior satisfactory academic achievement consistent with school unit policy and procedures applicable to all students.

C. The student shall comply with behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may withhold credit or terminate participation.

D. Transportation must be provided by the parent or guardian or student. The student may use the same transportation as all other students in the school unit, as long as additional expenses are not incurred.

E. The student shall complete all assignments and tests as required of all students in the class.

F. A home-schooled student may audit a course in accordance with established local policy at the appropriate public school under the following conditions.

(1) The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the superintendent or the superintendent's designee to audit a specific course or courses. Participation may not be unreasonably withheld.

(2) The student agrees to meet established behavioral, disciplinary, attendance and other classroom rules applicable to all students. If a student fails to comply, the school may terminate participation.

2. Academic credit. A student receiving home-school instruction must receive academic credit subject to the following requirements.

A. Academic credit for individual courses must be awarded if the student meets required aca-

demie standards applicable to all students enrolled in the same course.

B. Academic credit must be awarded for successful completion of alternative instruction opportunities sponsored by the school and available to all students.

3. Special education services. A student receiving home-school instruction is eligible for special education services, as provided under federal regulations, in accordance with section 5001-A and relevant department procedures and standards.

4. Participation in cocurricular activities. A student receiving home-school instruction is eligible to participate in cocurricular activities sponsored by the local school unit provided the following requirements are met.

A. The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the principal of the school or the principal's designee. Participation may not be unreasonably withheld.

B. The student agrees to meet established behavioral, disciplinary, attendance and other rules applicable to all students.

5. Participation in extracurricular activities. Students receiving home-school instruction are eligible to try out for extracurricular activities sponsored by the local school unit, provided the student applies in writing, if the following requirements are satisfied.

A. The student agrees to abide by equivalent rules of participation as are applicable to regularly enrolled students participating in the activity and provides evidence that the rules of participation are being met.

B. The student complies with the same physical examination, immunization, insurance, age and semester eligibility requirements as regularly enrolled students participating in the activity. All required documentation must be made available upon request by the school unit.

C. The student meets equivalent academic standards as those established for regularly enrolled students participating in the activity and provides evidence that the academic standards are being met.

D. The student abides by the same transportation policy as regularly enrolled students participating in the activity.

6. Use of school facilities and equipment. A student receiving home-school instruction may use

public school facilities and equipment on the same basis as regularly enrolled students if the following conditions are met:

- A. Use does not disrupt regular school activities;
- B. Use is approved by the school principal in accordance with established school policy;
- C. Use does not create additional expense to the school unit;
- D. Use is directly related to the student's academic program; and
- E. Use of potentially hazardous areas, such as shops, laboratories and the gymnasium, is supervised by a qualified employee of the school administrative unit.

7. Use of school textbooks and library books.

Subject to availability, a student receiving home instruction may use school textbooks if the number of particular copies are sufficient and library books owned by the school unit subject to the following conditions:

- A. Use does not disrupt regular student, staff or special program functions;
- B. The student's sign-out period for a library book is the same as that applicable to regularly enrolled students;
- C. The student may sign out a textbook for a period not to exceed one year; and
- D. The parent or guardian and student agree to reimburse the school unit for lost, unreturned or damaged library books and textbooks and for consumable supplies used.

§5022. Admission to regular program

1. Placement. A student who has been receiving home-school instruction and who seeks admission to the regular school program must be placed in a grade commensurate with the level of the student's academic achievement. Placement must be guided by the following.

- A. Grade level placement is determined by the locally designated appropriate school staff, based upon but not limited to such factors as the student's completed curricula and record of achievement, conferencing with the student's parent or guardian and administration of tests, if determined necessary.
- B. The final grade level placement decision is based upon local school unit policy and procedures. That decision may be appealed to the

school unit superintendent and, if desired, subsequently to the local school board, whose decision is final.

2. High school course credits and diploma eligibility. The following standards govern the awarding of course credits and a graduation diploma to a student receiving home-school instruction who seeks admission to the public high school.

A. A student shall earn high school credits for satisfactory completion of courses in the public high school pursuant to section 5021, subsection 2, paragraph A.

B. A student may earn credit for course work completed through home-school instruction if the principal determines both in advance and upon completion of the course that the course satisfies the requirements for awarding the credit. The principal may direct that the student undergo a test or tests to assist in making a determination relative to the awarding of credit.

C. Requests for transfer credit for equivalent instruction completed at nonapproved private schools, at private schools that elect not to meet requirements under section 2901 or through other equivalent instruction programs must be evaluated on the merits of the documentation provided. The principal and guidance staff shall conduct these evaluations on request by the student or the student's parent or guardian.

D. Awarding of a high school diploma by the local school is conditioned upon the student's demonstration of having satisfied all course credit or other requirements established by the local school board. The local board of directors may establish resident credit requirements as a precondition for the awarding of a local school unit diploma.

§5023. Standards for participation when tuition payment is required

When the local public school unit does not provide academic instruction for specific grade levels, the following applies for students enrolled in an approved program of equivalent instruction.

1. Class participation. The home-schooled student or the student's parent or guardian shall request authorization from the resident local school unit to apply to another school unit for permission to participate in classes or activities in that other school unit.

2. Tuition payment. Tuition payments for home-schooled student participation in a local school unit, including attendance at an applied technology

center or an applied technology region, other than the applicant's resident district is the responsibility of the home-schooled student, the student's parent or guardian or the student's resident school administrative unit, in accordance with local school unit policy. Participation may not be unreasonably withheld.

3. Participation eligibility. A tuitioned home-schooled student is subject to the rules relating to eligibility for participation in cocurricular or extracurricular activities as may apply at the receiving school unit.

4. Interscholastic activities. A tuitioned home-schooled student attending classes in more than one receiving school unit is not eligible for participation in interscholastic activities at any local school unit.

§5024. Local school unit policy

Each school administrative unit shall develop and adopt a policy consistent with this subchapter. Establishment and administration of the local school unit policy is subject to the following.

1. Policy. Local school unit policy must be submitted to and placed on file in the department by January 1, 1997.

2. Implementation. Locally approved policy is implemented and administered by the local school unit.

3. Provision of information. At the request of the student or the student's parent or guardian, public schools shall make available to home-schooled students, in a form determined by the school, information regarding access to public school resources and services, participation in public school activities and attendance at public schools. This information must include:

A. Requirements regarding initial health and developmental screening for motor skills, vision, hearing and immunization; and

B. Criteria for participation of home-schooled students in curricular, cocurricular and extracurricular activities.

4. Appeals. Appeals from administration and application of the local school unit policy are heard by the local school unit's school board, whose decision is final and binding.

§5025. Compliance

Appeals that question the local school unit's policy compliance with this subchapter must be made to the commissioner, whose decision is final and binding.

Sec. 2. Construction; legislative intent; cooperation between the State and local school administrative units. With respect to the provision for equivalent instruction under the Maine Revised Statutes, Title 20-A, section 5001-A, subsection 3, paragraph A, subparagraph (3), the Legislature recognizes that the term "equivalent" is intended to mean meeting state standards, for alternate or other instruction and is not intended to mean the same as the education delivered in the public school system. It is the intention of the Legislature that, to meet the State's obligation to educate its children, the State and local school administrative units shall cooperate in the home instruction of any child who resides in that school administrative unit to the degree that the level of cooperation does not interfere with the responsibilities to students enrolled in regular programs.

See title page for effective date.

CHAPTER 611

S.P. 703 - L.D. 1792

An Act Concerning the Number of Washington County Commissioners

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:

PART A

Sec. A-1. Special advisory referendum on the reapportionment of Washington County Commissioner Districts. The municipal officers of Washington County shall, at the next general election in the month of November following the passage of this Act, hold a special advisory referendum to determine the sentiment of the people of Washington County on the reapportionment of Washington County into 5 County Commissioner Districts.

Sec. A-2. Advisory referendum procedure; submission at general election. This advisory referendum must be submitted to the legal voters of Washington County at the next general election in the month of November following passage of this Act. The municipal officers of Washington

County shall notify the inhabitants of their cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to give their opinion on this question by voting on the following:

"Do you favor the reapportionment of Washington County to increase the number of County Commissioner Districts from 3 Districts to 5 Districts?"

The legal voters of each city, town and plantation in Washington County 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. The result of the vote must be declared by the municipal officers of Washington County and due certificate must be filed by the municipal officers with the Secretary of State.

PART B

Sec. B-1. 30-A MRSA §66, sub-§15, as amended by PL 1995, c. 501, §1, is further amended to read:

15. Creation of Washington County Commissioner Districts. Washington County is divided into the following 3 districts.

A. Commissioner District Number 1 consists of the municipalities of Alexander, Baileyville, Baring Plantation, Calais, Charlotte, Codyville Plantation, Cooper, Crawford, Danforth, Grand Lake Stream Plantation, Meddybemps, Princeton, Robbinston, Talmadge, Topsfield, Waite and Vanceboro, Indian Township and the unorganized territory of North Washington. The term of office of the commissioner from this district expires in 1988 and every 4 years thereafter.

B. Commissioner District Number 2 consists of the municipalities of Beddington, Centerville, Cutler, Deblois, Dennysville, East Machias, Eastport, Lubec, Machiasport, Marshfield, Northfield, Pembroke, Perry, Wesley, Whiting and Whitneyville, Pleasant Point Passamaquoddy Indian Reservation and the unorganized territories of East Central Washington and North Washington. The term of office of the commissioner from this district expires in 1988 and every 4 years thereafter.

C. Commissioner District Number 3 consists of the municipalities of Addison, Beals, Cherryfield, Columbia, Columbia Falls, Harrington, Jonesboro, Jonesport, Machias, Milbridge, Roque Bluffs and Steuben. The term

of office of the commissioner from this district expires in 1990 and every 4 years thereafter.

~~In addition to the commissioners from the districts specified in paragraphs A, B and C, 2 commissioners must be elected at large. The terms of office of the at-large commissioners expire in 1998 and every 4 years thereafter.~~

See title page for effective date.

CHAPTER 612

H.P. 1320 - L.D. 1807

An Act to Exclude Services Provided by Direct Sellers from the Definition of Employment for Purposes of Unemployment Compensation

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

Whereas, unless immediate action is taken, an unnecessary burden will be imposed on suppliers of products to certain direct sellers; 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-§11, ¶F, as amended by PL 1995, c. 204, §§1 and 2, is further amended by amending subparagraphs (36) and (37) to read:

(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 that were not more than 33 1/3% of its average gross receipts

for the other 6 months in the preceding calendar year; ~~and~~

(37) Services performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax-; and

Sec. 2. 26 MRSA §1043, sub-§11, ¶F, as amended by PL 1995, c. 204, §§1 and 2, is further amended by adding a new subparagraph (38) to read:

(38) Services performed by a direct seller as defined in 26 United States Code, Section 3508, Subsection (b), Paragraph (2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property.

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

Effective April 3, 1996.

CHAPTER 613

S.P. 759 - L.D. 1871

An Act to Amend the Maine Turnpike Authority's Budget for Calendar Year 1996, to Clarify the Maine Turnpike Authority's Budget Process and to Facilitate the Evaluation of Automated Toll Collection

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

Whereas, unanticipated delays in the implementation of the Maine Turnpike Authority's automatic toll conversion project that delayed the related reductions in the authority's complement of toll collection personnel will require the authority to increase the amounts it must pay from turnpike revenues for Personal Services in the authority's 1996 fiscal year; and

Whereas, proper staffing of the authority's toll collection activities is essential to the safe and efficient operation of the authority under its enabling legislation and pursuant to its general bond resolution; 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 §1961, sub-§6, as amended by PL 1993, c. 563, §1, is further amended to read:

6. Appropriation. On or before January 31st of each year, the authority shall present to each regular session of the Legislature for its approval ~~the operating a budget for the operating expenses~~ of the authority for the calendar year that begins after the adjournment of that regular session and shall present to each regular session of the Legislature for informational purposes a statement of the revenues necessary for capital expenditures and reserves, and to meet the requirements of any resolution authorizing bonds of the authority during that calendar year, including debt service and the maintenance of reserves for debt service and reserve maintenance. The authority may only ~~make expenditures pay operating expenses~~ in accordance with allocations approved by the Legislature or as necessary to satisfy the requirements of any resolution authorizing bonds of the authority. The operating surplus must be transferred to the Department of Transportation and expended in accordance with allocations approved by the Legislature.

Sec. 2. 23 MRSA §1964, sub-§6-A, as amended by PL 1995, c. 504, Pt. C, §3, is further amended to read:

6-A. Operating surplus. "Operating surplus" means the total annual operating revenues of the Maine Turnpike Authority, after money has been put aside to pay the reasonable operating expenses, to pay or to reserve for capital expenditures and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority, including any amounts pledged to secure obligations issued pursuant to section 1968, subsection 2-A or to pay principal, interest or premium, if any, with respect to these obligations.

Sec. 3. 23 MRSA §1965-A, sub-§1, ¶A, as enacted by PL 1995, c. 341, §2, is amended to read:

A. ~~Convert~~ Complete an evaluation of the conversion of the turnpike toll collection system to an automated electronic system designed to move traffic more efficiently through toll plazas;

Sec. 4. P&SL 1995, c. 29, §1, under the caption "MAINE TURNPIKE AUTHORITY," is amended by striking out all of that part

relating to "Fare Collection" and inserting in its place the following:

Fare Collection

Personal Services	9,816,323
All Other	3,779,089
TOTAL	13,595,412

Sec. 5. P&SL 1995, c. 29, §1, under the caption "MAINE TURNPIKE AUTHORITY," is amended by striking out all of the last line and inserting in its place the following:

TOTAL \$43,236,740

Sec. 6. Legislative intent. Those sections of this Act that amend the Maine Revised Statutes, Title 23, section 1961, subsection 6 and Title 23, section 1964, subsection 6-A clarify the intent of Initiated Bill 1991, chapter 1, to have the Legislature approve the Maine Turnpike Authority's operating budget and confirm the authority's practice of submitting an operating budget for approval and a statement on capital expenditures and debt service for informational purposes.

Sec. 7. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 23, section 1961, subsection 6 and section 1964, subsection 6-A apply retroactively to December 20, 1991.

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

Effective April 3, 1996.

CHAPTER 614

H.P. 1239 - L.D. 1699

**An Act to Amend and Further
Deregulate the Maine Consumer
Credit Code**

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

PART A

Sec. A-1. 9-A MRSA §2-202, sub-§2, ¶A, as repealed and replaced by PL 1977, c. 421, §1, is amended to read:

A. The average daily balance in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle, divided by the number of days in that cycle. The

amount unpaid on a day is determined by adding to the balance, if any, unpaid as of the beginning of that day all debits, but excluding ~~all~~ purchases or leases of goods and services made on that day if a finance charge on these amounts is prohibited under subsection 5 and deducting all payments and other credits made or received as of that day; or

Sec. A-2. 9-A MRSA §2-302, sub-§4, as amended by PL 1983, c. 720, §8, is further amended to read:

4. A separate license ~~shall be~~ is required for each place of business. ~~No A~~ license fee exceeding \$200 may not be imposed for any license issued for a place of business other than that of the first licensed location of the licensee.

Sec. A-3. 9-A MRSA §2-308, sub-§3, as enacted by PL 1973, c. 762, §1, is repealed.

Sec. A-4. 9-A MRSA §2-501, sub-§4, as enacted by PL 1995, c. 137, §5, is amended by amending the first paragraph 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 or supervised lender 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:

Sec. A-5. 9-A MRSA §5-105, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. The maximum part of the aggregate disposable earnings of an individual for any workweek ~~which that~~ is subjected to garnishment to enforce payment of a judgment arising from a consumer credit transaction may not exceed the lesser of:

A. ~~25%~~ Twenty-five percent of ~~his the~~ individual's disposable earnings for that week; ~~or~~

B. The amount by which ~~his the~~ individual's disposable earnings for that week exceed 40 times the Federal minimum hourly wage prescribed by Section 6(a)(I) of the Fair Labor Standards Act of 1938, U.S.C. tit. 29, § 206(a)(I), in effect at the time the earnings are payable; or

C. In the case of earnings for a pay period other than a week, the administrator shall prescribe by rule a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph B.

Sec. A-6. 9-A MRSA §8-105, sub-§1-A is enacted to read:

1-A. The finance charge may not include fees and amounts imposed by 3rd-party closing agents, including settlement agents, attorneys and escrow and title companies but not including fees for administering escrow accounts, if the creditor does not require the imposition of the charges or the services provided and does not retain the charges.

Sec. A-7. 9-A MRSA §8-105, sub-§4, ¶¶A and B, as enacted by PL 1981, c. 243, §25, are amended to read:

A. Fees and charges prescribed by law ~~which~~ that actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction; ~~or~~

B. The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph A ~~which~~ that would otherwise be payable; ~~or~~

Sec. A-8. 9-A MRSA §8-105, sub-§4, ¶C is enacted to read:

C. Any tax levied on security instruments or on documents evidencing indebtedness if the payment of those taxes is a precondition for recording the instrument securing the evidence of indebtedness.

Sec. A-9. 9-A MRSA §8-105, sub-§5, ¶¶B and E, as enacted by PL 1981, c. 243, §25, are amended to read:

B. Fees for preparation of ~~a deed, settlement statement or other~~ loan-related documents;

E. Appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted prior to closing; and

Sec. A-10. 9-A MRSA §8-201, sub-§3, as enacted by PL 1981, c. 243, §25, is amended to read:

3. The administrator may provide by regulation that any portion of the information required to be disclosed by this ~~Article~~ article may be given in the form of estimates ~~where~~ when the provider of that information is not in a position to know exact information. When a portion of the interest on any consumer credit transaction is determined on a per diem basis and collected upon the consummation of the transaction, any disclosure with respect to that portion of interest is deemed accurate for purposes of this Title if the disclosure is based on information

actually known to the creditor at the time the disclosure documents are being prepared for the consummation of the transaction.

Sec. A-11. 9-A MRSA §8-204, sub-§§8 and 9 are enacted to read:

8. An obligor has no rescission rights arising solely from the form of written notice used by the creditor to inform the obligor of the rights of the obligor under this section if the creditor provided the obligor the appropriate form of written notice published and adopted by the administrator or provided the obligor a comparable written notice of the rights of the obligor that was properly completed by the creditor and otherwise complied with all other requirements of this section regarding notice.

9. Rescission rights in foreclosure are determined in accordance with the following.

A. Notwithstanding section 8-208-A, and subject to the time period provided in subsection 6, in addition to any other right of rescission available under this section for a transaction, after the initiation of any judicial or nonjudicial foreclosure process on the primary dwelling of any obligor securing an extension of credit, the obligor has a right to rescind the transaction equivalent to other rescission rights provided by this section, if:

(i) A mortgage broker fee is not included in the finance charge in accordance with the laws and regulations in effect at the time the consumer credit transaction was consummated; or

(ii) The form of notice of rescission for the transaction is not the appropriate form of written notice published and adopted by the administrator or a comparable written notice, and otherwise complied with all the requirements of this section regarding notice.

B. Notwithstanding section 8-105, subsection 6, and subject to the time period provided in subsection 6, for the purposes of exercising any rescission rights after the initiation of any judicial or nonjudicial foreclosure process on the principal dwelling of the obligor securing an extension of credit, the disclosure of the finance charge and other disclosures affected by any finance charge are deemed accurate for purposes of this section if the amount disclosed as the finance charge does not vary from the actual finance charge by more than \$35 or is greater than the amount required to be disclosed under this Title.

C. This subsection does not affect a consumer's right of rescission in recoupment under law.

D. This subsection applies to all consumer credit transactions in existence or consummated on or after September 30, 1995.

Sec. A-12. 9-A MRSA §8-208, sub-§1, ¶B, as amended by PL 1981, c. 698, §21, is repealed and the following enacted in its place:

B. In an individual action:

(i) Twice the amount of any finance charge in connection with the transaction;

(ii) In the case of a consumer lease, 25% of the total amount of monthly payments under the lease;

Liability under this paragraph may not be less than \$100 nor greater than \$1,000; except that in the case of a credit transaction not under an open-end credit plan that is secured by real property or a dwelling, liability under this paragraph may not be less than \$200 nor greater than \$2,000.

Sec. A-13. 9-A MRSA §8-208-A is enacted to read:

§8-208-A. Certain limitations on liability

1. For any consumer credit transaction subject to this Title that is consummated before September 30, 1995, a creditor or any assignee of a creditor does not have civil, administrative or criminal liability under this Title for, and a consumer does not have extended rescission rights under section 8-204, subsection 6 with respect to:

A. The creditor's treatment, for disclosure purposes, of:

(i) Taxes described in section 8-105, subsection 4, paragraph C;

(ii) Fees described in section 8-105, subsection 5, paragraphs B and E;

(iii) Fees and amounts described in section 8-105, subsection 1-A; or

(iv) Borrower-paid mortgage broker fees referred to in section 8-105, subsection 1, paragraph F;

B. The form of written notice used by the creditor to inform the obligor of the rights of the obligor under section 8-204 if the creditor provided the obligor with a properly dated form of written notice published and adopted by the administrator or a comparable written notice and otherwise complied with all the requirements of this section regarding notice; or

C. Any disclosure relating to the finance charge imposed with respect to the transaction if the amount or percentage actually disclosed:

(i) Is deemed accurate for purposes of this Title and if the amount disclosed as the finance charge does not vary from the actual finance charge by more than \$200;

(ii) May, under section 8-105, subsection 6, paragraph B, be deemed accurate for purposes of section 8-204; or

(iii) Is greater than the amount or percentage required to be disclosed under this Title.

2. Subsection 1 does not apply to:

A. Any individual action or counterclaim brought under this Title that was filed before June 1, 1995;

B. Any class action brought under this Title for which a final order certifying a class was entered before January 1, 1995;

C. The named individual plaintiffs in any class action brought under this Title that was filed before June 1, 1995; or

D. Any consumer credit transaction for which a timely notice of rescission was sent to the creditor before June 1, 1995.

Sec. A-14. 9-A MRSA §8-209, sub-§§4, 5 and 6 are enacted to read:

4. The rights upon assignment of certain mortgages are determined in accordance with the following.

A. Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage, as defined in section 8-103, subsection 1, paragraph F-1, is subject to all claims and defenses with respect to that mortgage that the consumer may assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates by a preponderance of the evidence that a reasonable person exercising ordinary due diligence could not determine, based on the documentation required by this Title, the itemization of the amount financed and other disclosure of disbursements, that the mortgage was a high-rate, high-fee mortgage. This paragraph does not affect rights of a consumer under subsection 1, 2 or 3 or any other provision of this Title.

B. Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph A may not exceed:

(i) With respect to actions based upon a violation of this Title, the amount specified in section 8-208; and

(ii) With respect to all other causes of action, the sum of:

(a) The amount of all remaining indebtedness; and

(b) The total amount paid by the consumer in connection with the transaction.

C. The amount of damages that may be awarded under paragraph B, subparagraph (ii) must be reduced by the amount of any damages awarded under paragraph B, subparagraph (i).

D. Any person who sells or otherwise assigns a high-rate, high-fee mortgage, as defined in section 8-103, subsection 1, paragraph F-1, shall include a prominent notice of the potential liability under this subsection as determined by the administrator.

5. The liability of assignees for consumer credit transactions secured by real property is determined in accordance with the following.

A. Except as otherwise provided in this Title, any civil action against a creditor for a violation of this Title and any proceeding under section 8-108 against a creditor, with respect to a consumer credit transaction secured by real property, may be maintained against any assignee of that creditor only if:

(i) The violation for which the action or proceeding is brought is apparent on the face of the disclosure statement provided in connection with the transaction pursuant to this Title; and

(ii) The assignment to the assignee was voluntary.

B. For the purposes of this subsection, a violation is apparent on the face of the disclosure statement if:

(i) The disclosure can be determined to be incomplete or inaccurate by a comparison among the disclosure statement, any itemization of the amount financed, the note or any other disclosure of disbursement; or

(ii) The disclosure statement does not use the terms or format required under this Title.

6. The treatment of a servicer of a consumer obligation from a consumer credit transaction is determined in accordance with the following.

A. A servicer of a consumer obligation arising from a consumer credit transaction may not be treated as an assignee of such an obligation for purposes of this section unless the servicer is or was the owner of the obligation.

B. A servicer of a consumer obligation arising from a consumer credit transaction may not be treated as the owner of the obligation for purposes of this section on the basis of an assignment of the obligation from the creditor or another assignee to the servicer solely for the administrative convenience of the servicer in servicing the obligation. Upon written request by the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the name, address and telephone number of the owner of the obligation or the master servicer of the obligation.

C. For purposes of this subsection, the term "servicer" has the same meaning as in the federal Real Estate Settlement Procedures Act of 1974, Section 6(i)(2).

D. This subsection applies to all consumer credit transactions in existence or consummated on or after September 30, 1995.

Sec. A-15. 9-A MRSA §8-303, sub-§5, ¶B, as enacted by PL 1981, c. 243, §25, is amended to read:

B. This action with respect to any outstanding disputed amount may not be taken by the card issuer upon request of the cardholder.

Sec. A-16. 9-A MRSA §9-308, as enacted by PL 1987, c. 396, §12, is amended to read:

§9-308. Right to prepay

A consumer may prepay in full or in part the unpaid balance of a consumer credit transaction that is an alternative mortgage transaction, as defined in section ~~9-304~~ 9-302, subsection 1, at any time without penalty.

PART B

Sec. B-1. 9-A MRSA §8-105, sub-§1, ¶¶D and E, as enacted by PL 1981, c. 243, §25, are amended to read:

D. Fee for an investigation or credit report; ~~or~~

E. Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss; ~~or~~

Sec. B-2. 9-A MRSA §8-105, sub-§1, ¶F is enacted to read:

F. Borrower-paid mortgage broker fees, including fees paid directly to the broker or to the lender for delivery to the broker, whether the fees are paid in cash or financed.

Sec. B-3. 9-A MRSA §8-105, sub-§6 is enacted to read:

6. In connection with credit transactions not under an open-end credit plan that are secured by real property or a dwelling, the disclosure of the finance charge and other disclosures affected by any finance charge are deemed accurate:

A. For purposes of this Title, if the amount disclosed as the finance charge:

(i) Does not vary from the actual finance charge by more than \$100; or

(ii) Is greater than the amount required to be disclosed under this Title; or

B. For purposes of section 8-204:

(i) If, except as provided in subparagraph (ii), the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1/2 of 1% of the total amount of credit extended; or

(ii) In the case of a transaction, other than a high-rate, high-fee mortgage as defined in section 8-103, subsection 1, paragraph F-1, that:

(a) Is a refinancing of the principal balance then due and any accrued and unpaid finance charges of a residential mortgage transaction, as defined in section 8-103, subsection 1, paragraph H, or is any subsequent refinancing of such a transaction; and

(b) Does not provide any new consolidation or new advance, if the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1% of the total amount of credit extended.

Sec. B-4. Effective date. This Part takes effect September 30, 1996.

PART C

Sec. C-1. 9-A MRSA §8-208, sub-§8, ¶B, as amended by PL 1989, c. 472, §3, is further amended to read:

B. In connection with the disclosures of section 8-206, a creditor's only liability determined under subsection 1, ~~paragraphs~~ paragraph B or D; is for failing to comply with the requirements of section 8-204; or section 8-206, subsection 1, paragraph B, ~~C, D, E, F, G or H~~ J.

See title page for effective date, unless otherwise indicated.

CHAPTER 615

S.P. 670 - L.D. 1732

An Act to Promote the Health of Newborns and Their Mothers

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

Whereas, insurers, nonprofit hospital and medical service organizations and health maintenance organizations across the United States have implemented health care plans generally covering no more than 24 hours of hospital care for mothers and newborns following childbirth; and

Whereas, insurers, nonprofit hospital and medical service organizations and health maintenance organizations operating health care plans in Maine could initiate limits on hospital stays at any time; and

Whereas, the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology, recommend a hospital stay of 48 hours after childbirth; and

Whereas, it is the intent of the Legislature to prevent the adverse impact of inappropriate early discharge of maternity patients and newborns; 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 §2318-A is enacted to read:

§2318-A. Maternity and newborn care

A nonprofit hospital or medical service organization that issues individual and group contracts providing maternity benefits, including benefits for childbirth, must provide coverage for services related to maternity and newborn care, including coverage for hospital stay, in accordance with the attending physician's or attending certified nurse midwife's determination in conjunction with the mother that the mother and newborn meet the criteria outlined in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology. For the purposes of this section, "attending physician" includes the obstetrician, pediatrician or other physician attending the mother and newborn.

Sec. 2. 24-A MRSA §2743-A is enacted to read:

§2743-A. Maternity and newborn care

An insurer that issues individual contracts providing maternity benefits, including benefits for childbirth, must provide coverage for services related to maternity and newborn care, including coverage for hospital stay, in accordance with the attending physician's or attending certified nurse midwife's determination in conjunction with the mother that the mother and newborn meet the criteria outlined in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology. For the purposes of this section, "attending physician" includes the obstetrician, pediatrician or other physician attending the mother and newborn.

Sec. 3. 24-A MRSA §2834-A is enacted to read:

§2834-A. Maternity and newborn care

An insurer that issues group contracts providing maternity benefits, including benefits for childbirth, must provide coverage for services related to maternity and newborn care, including coverage for hospital stay, in accordance with the attending physician's or attending certified nurse midwife's determination in conjunction with the mother that the mother and newborn meet the criteria outlined in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology. For the purposes of this section, "attending physician" includes the obstetrician, pediatrician or other physician attending the mother and newborn.

Sec. 4. 24-A MRSA §4234-B is enacted to read:

§4234-B. Maternity and newborn care

Individual and group contracts issued by a health maintenance organization that provide maternity benefits, including benefits for childbirth, must provide coverage for services related to maternity and newborn care, including coverage for hospital stay, in accordance with the attending physician's or attending certified nurse midwife's determination in conjunction with the mother that the mother and newborn meet the criteria outlined in the "Guidelines for Perinatal Care," published by the American Academy of Pediatrics and the American College of Obstetrics and Gynecology. For the purposes of this section, "attending physician" includes the obstetrician, pediatrician or other physician attending the mother and newborn.

Sec. 5. Applicability. This Act applies to all policies and contracts executed, delivered, issued for delivery, continued or renewed on or after the effective date of this Act. All policies and contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

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

Effective April 5, 1996.

CHAPTER 616

H.P. 1288 - L.D. 1768

**An Act to Standardize the Creation
of Water Districts**

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

Sec. 1. 30-A MRSA §2356, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Trustees' compensation; water districts and sewer districts. This chapter does not affect the procedures concerning changes in the compensation of trustees of water districts and sewer districts as provided in Title 35-A, section 6303 6410, subsection 4- 7, and Title 38, section 1252, subsection 5.

Sec. 2. 35-A MRSA §§6301 and 6302, as enacted by PL 1987, c. 141, Pt. A, §6, are repealed.

Sec. 3. 35-A MRSA §6303, as amended by PL 1987, c. 769, Pt. A, §144, is repealed.

Sec. 4. 35-A MRSA §6304, as amended by PL 1987, c. 490, Pt. C, §12, is repealed.

Sec. 5. 35-A MRSA §§6305 and 6306, as enacted by PL 1987, c. 141, Pt. A, §6, are repealed.

Sec. 6. 35-A MRSA §6307, as amended by PL 1987, c. 490, Pt. C, §13, is repealed.

Sec. 7. 35-A MRSA §6308, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

Sec. 8. 35-A MRSA §6309, as enacted by PL 1993, c. 651, §6, is repealed.

Sec. 9. 35-A MRSA §6310 is enacted to read:

§6310. Water districts; individual financing

When the trustees of a water district vote to authorize bonds or notes, the estimated cost of which, singly or in the aggregate included in any one financing, is \$150,000 or more adjusted, relative to 1981 as the base year according to the annual Consumer Price Index, as defined in Title 5, section 17001, subsection 9, the trustees shall provide notice to the general public of the proposed bond or note issue and the purposes for which the debt is being issued. The notice must be published at least once in a newspaper having general circulation in the water district. The trustees shall give notice to each ratepayer by mail. Notice of a rate change under section 6104 that contains the notice required by this section satisfies the notice requirements. The debt may not be incurred by the vote of the trustees until the expiration of 7 days following the date on which the notice was first published and mailed. Prior to the expiration of the 7-day period, the trustees shall call a special district meeting in order to collect testimony from the public concerning the amount of debt authorized. Except for indebtedness to fund projects specifically mandated by State Government and Federal Government, for debts in excess of the amount specified in this section, if requested by petition of not less than 50 voters of the district or 5% of the voters, whichever is greater, filed with the clerk of the water district on or before the date of the meeting, a vote of those attending the meeting must be called to approve or disapprove the amount of debt authorized. If a majority of voters present and voting disapprove of the amount of debt authorized by the trustees, the debt may not be incurred and the vote of the trustees authorizing the debt is void.

This section applies to water districts formed on or after January 1, 1982, except that this section does not apply to any standard district created pursuant to chapter 64 whose debt limit is subject to voter approval as provided in section 6413.

Sec. 10. 35-A MRSA c. 64 is enacted to read:

CHAPTER 64

WATER DISTRICTS AND STANDARD DISTRICTS

§6401. Purpose; scope and application; commission authority

1. Purpose. The purpose of this chapter, which may be known and cited as the "Standard Water District Enabling Act," is to promote consistency among the powers and authorities of water districts in this State. The intent of this chapter is to suggest standard provisions that a district formed after January 1, 1997 may consider including in its charter. Except as specifically provided in subsection 2, in recognition of the unique nature of each water district, its customers and its priorities, the suggested provisions are specifically not intended to be mandatory in nature and are not intended to apply to districts formed prior to January 1, 1997.

2. Scope and application. The provisions of this chapter apply as follows.

A. The following provisions apply to all water districts, regardless of when chartered, and any portion of a water district charter that is contrary to the provisions is void and of no effect:

(1) Section 6410, subsection 7; and

(2) Section 6410, subsection 8.

B. The following provisions apply to all water districts formed on or after January 1, 1982:

(1) Subsection 3;

(2) Section 6410, subsection 5; and

(3) Section 6416.

C. Except as provided in paragraphs A and B or in subsection 3 or by charter or other provision of law, the provisions of this chapter do not apply to districts formed prior to January 1, 1997.

3. Water districts; commission authority. Notwithstanding any terms, conditions or limitations, either expressed or implied, in a special Act of the Legislature under which a district is organized or in any special Act of the Legislature under which a district is franchised, the commission may establish reasonable terms upon which water districts shall extinguish their long-term indebtedness. This subsection does not authorize the commission to alter the terms of any existing obligations of a water district.

§6402. Definitions

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

1. Charter. "Charter" means a private and special law or a series of private and special laws that establishes a water district and defines its responsibilities and authority.

2. Standard district. "Standard district" means a water district that is a quasi-municipal corporation constituted for the purpose of supplying persons of the standard district with potable water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes, and that is formed and chartered pursuant to this chapter.

3. Water district. "Water district" has the same meaning as defined in section 6101, subsection 3 and includes, but is not limited to, standard districts.

§6403. Procedures; legal effect

1. Mandatory provisions. A standard district charter must include the following, which are not specified in this chapter:

- A. The corporate name of the standard district;
- B. The territorial limits of the standard district;
- C. The number of trustees of the standard district, which may not be less than 3;
- D. The appointing authority responsible for appointing or the method of electing the first board of trustees;
- E. The terms of the trustees who are elected or appointed subsequent to the first board. Terms may not be longer than 3 years. Terms of the first board are determined pursuant to section 6410, subsection 4;
- F. Whether the trustees, subsequent to the first board, are appointed or elected. Reference must be made to the appropriate subsections of section 6410; and
- G. The procedures for a local referendum on the creation of a standard district.

2. Optional provisions. A standard district charter may include provisions relating to the following:

- A. Special qualifications of trustees;
- B. Election of trustees by other than at large elections as provided in section 6410, subsection 1. Any provision for election of trustees by other

than at large elections must establish voting districts in conformance with the judicial principle of one person, one vote;

C. Additional purposes and powers of the standard district, such as authority to buy out an existing water company or to provide sewerage or other utility services;

D. Areas outside the standard district's territory in which the standard district is authorized to take water;

E. Notwithstanding section 6413, a specific debt limit;

F. Areas outside the standard district's territory in which the district is authorized to locate facilities;

G. Towns with which the standard district is authorized to contract to supply water; and

H. Any other powers or duties necessary to the accomplishment of legislative purposes for creating the standard district.

3. Guidelines for modified standard charters.

As determined appropriate by the Legislature, a standard district charter may include provisions that differ from those set forth in this chapter.

§6404. Standard districts; powers

Except as otherwise provided by law, for the purposes of its incorporation, a standard district may take water from any source within the territory of the district. A standard district may also, for the purposes of its incorporation, locate, construct and maintain pipes, dams, wells, reservoirs, pumping stations, treatment plants and other necessary structures and equipment and take any action necessary to furnish water for those purposes and for the public health, safety, comfort and convenience of the inhabitants and others of the district. A standard district may contract to accomplish any and all of the foregoing things.

All incidental powers, rights and privileges necessary to the accomplishment of the objectives set forth in this chapter are granted to a standard district.

§6405. Standard districts; authorized to lay mains, pipes, conduits and other water conveyances through public ways and across private lands

Except as otherwise provided by law and to the extent necessary for the purposes of its incorporation, a standard district may lay, maintain, repair and replace pipes, mains and other fixtures and appurtenances in, along and through the streets, roads, ways, highways, bridges, tidal waters, lakes, ponds, rivers

and water courses in the district and across private lands in the district. When a standard district lays, maintains, repairs or replaces any fixtures or appurtenances in any street, road, way or highway, it shall do so with as little obstruction as practicable to public travel. At its own expense and without unnecessary delay, a standard district shall replace in proper condition the earth and pavement removed by it.

§6406. Standard districts; authorized to erect dams and reservoirs, cross navigable waters, supply water to utilities

A standard district, for the purposes of its incorporation, may erect and maintain dams, reservoirs and structures. In accordance with applicable state and federal law, a standard district may lay, construct and maintain its pipes and fixtures in, over and under navigable waters and build and maintain structures for the pipes and fixtures. Subject to the consent of the commission, a standard district may supply water to any other water utility for purposes of resale.

§6407. Standard districts; procedure if public utility must be crossed

If a standard district, in constructing, maintaining or replacing any of its facilities, must cross any property of another public utility, the standard district must obtain the consent of the other public utility and undertake the work in accordance with conditions established by agreement. If, within 30 days after requesting consent, the standard district fails to reach an agreement with the public utility, the district may petition the commission to determine the time, place and manner of the crossing. All work done on the property of the public utility must be done under the supervision and to the satisfaction of the public utility or as prescribed by the commission. All work must be done at the expense of the standard district.

§6408. Standard districts; authority to acquire property; rights of eminent domain

To the extent necessary for purposes of incorporation, a standard district may take and hold any interest in real estate and personal estate.

1. Purchase or lease. A standard district may take and hold an interest in real estate or personal estate by purchase, lease or other lawful means.

2. Eminent domain. For purposes of its incorporation, a standard district may exercise the right of eminent domain as provided in chapters 65 and 67 to acquire any interest in land or water rights:

A. For erecting and maintaining dams, plants and works, for flowage, power, pumping and supplying water through its mains;

B. For reservoirs and for preserving and protecting the purity of the water and related watershed;

C. For laying and maintaining aqueducts and other structures;

D. For taking, distributing, discharging and disposing of water; and

E. For rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

Except as otherwise provided by law, a standard district may not take by right of eminent domain any property or facilities of any other public utility used or acquired for future use in the performance of a public duty.

§6409. Standard districts; procedures in exercising eminent domain

Except as otherwise provided by law, a standard district must exercise the right of eminent domain granted under section 6408 in accordance with this chapter and chapters 65 and 67.

§6410. Standard districts and water districts; trustees

All of the affairs of a standard district must be managed by a board of trustees whose members must be residents of the district. The number of trustees must be specified in the standard district's charter. After selection of the first board, each trustee is nominated and elected or appointed as provided in the charter creating the standard district and in accordance with subsection 1 or 2, as applicable. If the charter does not indicate whether trustees are appointed or elected, the trustees, after the selection of the first board, must be elected in accordance with subsection 1.

1. Standard districts; nominations and elections; vacancies. Nominations and elections of trustees are conducted in accordance with the laws relating to municipal elections.

When the term of office of a trustee expires, the trustee's successor is elected at large by a plurality vote of the voters of the standard district. For the purpose of election, a special election must be called and held on the date established by the trustees. The election must be called by the trustees of the standard district in the same manner as town meetings are called and, for this purpose, the trustees are vested with the powers of municipal officers of towns. A vacancy is filled in the same manner for the unexpired term by a special election called by the trustees of the standard district.

The trustees shall appoint a registrar of voters for the standard district, who may also be the registrar of voters for any town within the standard district, and fix the registrar's salary. It is the registrar's duty to make and keep a complete list of all the eligible voters of the standard district. The list prepared by the registrar governs the eligibility of any voter. Voters who are resident outside the territorial limits of the standard district, as defined in its charter, are not eligible voters and the registrar of voters shall exclude those voters from the registrar's lists. All warrants issued for elections by the trustees must show that only the voters resident within the territorial limits of the standard district are entitled to vote.

2. Standard districts; appointments. If the charter creating a standard district specifies that the trustees are appointed, the appointments must be made as provided in the charter.

3. Standard districts; eligibility requirements. When a trustee ceases to be a resident of a standard district, the trustee shall vacate the office of trustee and the vacancy is filled as provided in subsection 1 or 2, as applicable. All trustees are eligible for reelection or reappointment, but a person who is a municipal officer, as defined in Title 30-A, section 2001, subsection 10, of any town located, in whole or in part, within the standard district is not eligible for appointment, nomination or election as a trustee of that district.

4. Standard districts; first board. The first board is appointed or elected as provided in the charter creating the standard district. At the first meeting, the initial trustees shall determine by agreement or, failing to agree, they shall determine by lot the term of office of each trustee. The terms of the trustees must be determined in accordance with the following table.

	TERM		
	<u>1 year</u>	<u>2 years</u>	<u>3 years</u>
<u>Total</u>			
<u>number of</u>			
<u>trustees</u>			
<u>3</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>4</u>	<u>1</u>	<u>1</u>	<u>2</u>
<u>5</u>	<u>1</u>	<u>2</u>	<u>2</u>
<u>6</u>	<u>2</u>	<u>2</u>	<u>2</u>
<u>7</u>	<u>2</u>	<u>2</u>	<u>3</u>
<u>8</u>	<u>2</u>	<u>3</u>	<u>3</u>

<u>9</u>	<u>3</u>	<u>3</u>	<u>3</u>
<u>10</u>	<u>3</u>	<u>3</u>	<u>4</u>
<u>11</u>	<u>3</u>	<u>4</u>	<u>4</u>
<u>12</u>	<u>4</u>	<u>4</u>	<u>4</u>
<u>13</u>	<u>4</u>	<u>4</u>	<u>5</u>
<u>14</u>	<u>4</u>	<u>5</u>	<u>5</u>
<u>15</u>	<u>5</u>	<u>5</u>	<u>5</u>

The trustees shall enter on their records the determination made. Vacancies are filled pursuant to subsection 1 or 2, as applicable.

At this original meeting, the trustees shall organize by electing from among their members a chair and a clerk, by adopting a corporate seal and by electing a treasurer who may or may not be a trustee.

5. Water districts; organization; conduct of business. Within one week after each annual appointment or election, the trustees of a water district shall meet for the purpose of electing a chair, treasurer and clerk from among them to serve for the ensuing year and until their successors are elected or appointed and qualified. The trustees, from time to time, may choose and employ and fix the compensation of any other necessary officers and agents who serve at the pleasure of the trustees. The treasurer shall furnish bond in the sum and with sureties approved by the trustees. The water district shall pay the cost of the bond.

The trustees may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the water district, and perform other acts within the powers delegated by law to the trustees.

The trustees shall be sworn to the faithful performances of their duties including the duties of a member who serves as clerk or clerk pro tem. The trustees shall publish an annual report that includes a report of the treasurer.

Business of the district must be conducted in accordance with the applicable provisions of the freedom of access laws, Title 1, sections 401 to 410.

6. Standard districts; decisions of the board. All decisions of the board of trustees must be made by a majority of those present and voting, except that a vote to approve the issuing of any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance must be approved by a majority of the entire elected board.

A quorum of the board of trustees consists of the total number of authorized trustees divided by 2 and, if necessary to obtain a whole number, the resulting number rounded up to the next whole number.

Trustees are subject to the conflict of interest provisions of Title 30-A, section 2605.

7. Water districts; trustees' compensation.

The trustees of a water district receive compensation as recommended by the trustees and approved by a majority of the municipal officers of the municipality, including compensation for any duties they perform as officers, as well as for their duties as trustees. For districts serving more than one municipality, any change in the compensation received by the trustees for any duties they perform within the district must be recommended by the trustees and approved by majority vote of the municipal officers in each municipality in municipalities representing a majority of the population within the district. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws. Compensation for duties as trustees must be on the basis of such specific amount as may be specified in the bylaws, for each meeting actually attended and reimbursement for travel and expenses, with the total not to exceed such specific amount as may be specified in the bylaws. Compensation schedules in effect on January 1, 1982 continue in effect until changed.

Notwithstanding section 6401, subsection 2, this subsection does not apply to any water district for which the charter provides for trustee compensation in a manner inconsistent with this subsection and specifically indicates by its own terms that this subsection or former section 6303, subsection 4 does not apply.

8. Water districts; trustees' retirement.

Persons who have not been water district trustees prior to January 1, 1987, and who are not full-time employees, are not eligible to become members of the Maine State Retirement System as a result of their selection as trustees. For purposes of determining a water district trustee's eligibility to be a member of the Maine State Retirement System prior to January 1, 1987, the provisions of the appropriate governing charter in effect at the time of the trustee's application for membership controls.

9. Standard districts; expenses. The trustees may obtain an office and incur necessary expenses.

§6411. Standard districts; authorized to make and assume contracts

A standard district, through its trustees, in order to carry out the purposes of its incorporation, may contract with persons, districts, municipalities, utilities or corporations.

§6412. Standard districts; authorized to receive government aid, borrow money, issue bonds and notes

1. Definition. For the purposes of this section, the term "necessary expenses and liabilities" means expenses and liabilities necessary to the operation of a standard district, including, but not limited to:

A. Reimbursement to a town for any organizational or other expenses and liabilities incurred by the town on behalf of the district;

B. Organizational expenses and liabilities incurred by the district;

C. Expenses and liabilities incurred in acquiring properties, paying damages and in laying pipes, mains, aqueducts and conduits;

D. Expenses and liabilities incurred in constructing, maintaining and operating a water plant or system;

E. Expenses and liabilities incurred in making renewals, additions, extensions and improvements to a water plant or system; and

F. Principal and interest payments associated with any of the expenses and liabilities in paragraphs A to E.

2. Authorization. A standard district, through its trustees, in order to pay necessary expenses and liabilities incurred in accordance with the purposes of its incorporation, may receive state and federal aid or grants and may borrow money temporarily and issue for the money its negotiable notes in order to renew and refund the debt created.

A standard district, through its trustees, may also issue, in accordance with section 6413 and chapter 9, bonds, notes or other evidences of indebtedness of the standard district. The trustees shall determine the amount or amounts of the indebtedness, the rate or rates of interest, whether the instrument will be sold at par or at a discount or a premium, the manner of the sale, including whether the sale will be public or private and any other terms and provisions of the offering. The trustees shall determine whether the debt will be issued to mature serially or made to run for a term of years. The standard district's debt instruments may be issued with or without provisions for calling the debt prior to maturity. If the debt is callable, the trustees shall determine whether it will be callable at par or at a premium.

3. Certain requirements concerning indebtedness. All bonds, notes or other evidences of indebtedness must have inscribed upon their face the corporate name of the standard district, as specified in the

charter creating the district, and be signed by the treasurer and countersigned by the chair of the board of trustees of the standard district. If coupon bonds are issued, the interest coupon attached to the coupon bonds must bear the facsimile signature of the treasurer.

4. Legal effect; tax exemption; reissue and refund authorization. All bonds, notes and other evidences of indebtedness issued by a standard district in accordance with this section are legal obligations of the standard district within the meaning of Title 30-A, section 5701. All bonds, notes and other evidences of indebtedness issued by the standard district are legal investments for savings banks in this State and are exempt from state income tax.

A standard district, through its trustees, may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue constitutes a separate loan.

§6413. Standard districts; debt limit and approval of voters of the district

Prior to issuing on behalf of a standard district any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance, the trustees shall propose a debt limit for the standard district that the trustees must submit for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except the standard district's registrar of voters is not required to prepare or the clerk to post a new list of voters. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The question presented must conform to one of the following forms:

For establishment of an initial debt limit: "Do you favor establishing the debt limit of the (insert name of standard district) at (insert amount)?" or

For amendment of an existing debt limit: "Do you favor changing the debt limit of the (insert name of standard district) from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the trustees and entered upon the standard district's records. Due certificate of the results must be filed by the clerk with the Secretary of State.

A debt limit proposal becomes effective upon its acceptance by a majority of the legal voters within the

standard district voting at the referendum. Failure of approval by the majority of voters voting at the referendum does not prevent subsequent referenda from being held for the same purpose. The costs of referenda are borne by the standard district.

Trustees may not issue any bond, note or other evidence of indebtedness payable within a period of more than 12 months after the date of issuance unless the total amount of such debt issued by the trustees is no more than an amount approved by referendum under this section.

§6414. Standard districts; rates

The rates of a standard district must be established in accordance with chapter 61. The rates must be sufficient to provide revenue to the standard district to carry out the purposes of its incorporation, without the need for any financial assistance from any municipality, other than the normal payment of water charges for services rendered and any loan or loans provided to the district for initial funds as set forth in section 6412. All customers of a standard district shall pay to the treasurer or other designated officer of the district the rates established by the district.

§6415. Standard districts; tax exempt

A standard district is a public municipal corporation within the meaning of Title 36, section 651 and the property of the district is exempt from taxation to the extent provided in that section.

§6416. Water districts; mutual funds

A water district may invest its funds, including sinking funds, reserve funds and trust funds, to the extent that the terms of any instrument creating the funds do not prohibit the investment, in 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. This section is in addition to and does not limit the power of a water district to invest its funds.

§6417. Water districts; rights conferred subject to provisions of law

Except as otherwise specifically provided by law, all the rights and duties mentioned in this chapter must be exercised and performed in accordance with all the applicable provisions of this Title to the extent this Title affects the operations of a water district.

§6418. Water districts; legislative acts

Prior to acting upon any proposal to create or to amend a water district charter, the joint standing committee of the Legislature having jurisdiction over public utilities shall solicit written comments from the municipalities that lie in whole or in part within the district or proposed district.

See title page for effective date.

CHAPTER 617

H.P. 976 - L.D. 1385

**An Act to Ensure That Basic Health
Care Needs of Women Are Covered
in Insurance Policies**

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

Sec. 1. 24 MRSA §2320-E is enacted to read:

§2320-E. Coverage for Pap tests

All group nonprofit medical service plan contracts and all nonprofit health care plan contracts must provide coverage for screening Pap tests recommended by a physician.

Sec. 2. 24 MRSA §2332-F is enacted to read:

§2332-F. Gynecological and obstetrical services

1. Coverage in managed care plans. With respect to managed care plans that require subscribers to select primary care physicians, a nonprofit hospital and medical service organization that issues group contracts must meet the following requirements.

A. The organization must permit a physician who specializes in obstetrics and gynecology to serve as a primary care physician if the physician qualifies under the organization's credentialing policy.

B. All group plan contracts must provide coverage for an annual gynecological examination, including routine pelvic and clinical breast examinations, performed by a physician, certified nurse practitioner or certified nurse midwife participating in the plan, without requiring the prior approval of the primary care physician.

C. If the examination specified in paragraph B reveals a gynecological condition for which another visit to the physician participating in the plan is medically required and appropriate, or for any gynecological care beyond the annual

examination, the carrier may require the patient or the examining physician, certified nurse practitioner or certified nurse midwife to secure from the patient's primary care physician a referral to the participating physician, certified nurse practitioner or certified nurse midwife from whom such care may be obtained.

2. Application. This section applies to all contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

This section does not prohibit a carrier from requiring a physician, certified nurse practitioner or certified nurse midwife participating in the plan to inform a woman's primary care physician prior to each treatment pursuant to this section.

Sec. 3. 24-A MRSA §2837-E is enacted to read:

§2837-E. Coverage for Pap tests

All group health 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 screening Pap tests recommended by a physician.

Sec. 4. 24-A MRSA §2850-A is enacted to read:

§2850-A. Gynecological and obstetrical services

1. Coverage in managed care plans. With respect to managed care plans that require group members to select primary care physicians, an insurer that issues group health insurance policies and contracts must meet the following requirements.

A. The insurer must permit a physician who specializes in obstetrics and gynecology to serve as a primary care physician if the physician qualifies under the insurer's credentialing policy.

B. All group plan contracts must provide coverage for an annual gynecological examination, including routine pelvic and clinical breast examinations, performed by a physician, certified nurse practitioner or certified nurse midwife participating in the plan, without requiring the prior approval of the primary care physician.

C. If the examination specified in paragraph B reveals a gynecological condition for which another visit to the physician participating in the plan is medically required and appropriate, or for

any gynecological care beyond the annual examination, the carrier may require the patient or the examining physician, certified nurse practitioner or certified nurse midwife to secure from the patient's primary care physician a referral to the participating physician, certified nurse practitioner or certified nurse midwife from whom such care may be obtained.

2. Application. This section applies to all policies and contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

This section does not prohibit a carrier from requiring a physician, certified nurse practitioner or certified nurse midwife participating in the plan to inform a woman's primary care physician prior to each treatment pursuant to this section.

Sec. 5. 24-A MRSA §§4240 and 4241 are enacted to read:

§4240. Coverage for Pap tests

All health maintenance organization plan contracts must provide coverage for screening Pap tests recommended by a physician.

§4241. Gynecological and obstetrical services

1. Coverage in managed care plans. With respect to managed care plans that require enrollees to select primary care physicians, a health maintenance organization that issues group policies and contracts must meet the following requirements.

A. The health maintenance organization must permit a physician who specializes in obstetrics and gynecology to serve as a primary care physician if the physician qualifies under the organization's credentialing policy.

B. All group plan contracts must provide coverage for an annual gynecological examination, including routine pelvic and clinical breast examinations, performed by a physician, certified nurse practitioner or certified nurse midwife participating in the plan, without requiring the prior approval of the primary care physician.

C. If the examination specified in paragraph B reveals a gynecological condition for which another visit to the physician participating in the plan is medically required and appropriate, or for any gynecological care beyond the annual examination, the carrier may require the patient or the examining physician, certified nurse

practitioner or certified nurse midwife to secure from the patient's primary care physician a referral to the participating physician, certified nurse practitioner or certified nurse midwife from whom such care may be obtained.

2. Application. This section applies to all policies and contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

This section does not prohibit a carrier from requiring a physician, certified nurse practitioner or certified nurse midwife participating in the plan to inform a woman's primary care physician prior to each treatment pursuant to this section.

Sec. 6. Effective date. This Act takes effect January 1, 1997.

Effective January 1, 1997.

CHAPTER 618

S.P. 689 - L.D. 1761

**An Act to Amend the Laws
Regarding Employee Leasing
Companies**

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

Whereas, the recent collapse of an employee leasing company caused financial harm to many former employees and former client companies due to unfunded health care benefit plans; and

Whereas, employee leasing companies play an important role in the economic development of this State; and

Whereas, immediate steps are necessary to ensure that employee leasing companies do not offer self-insured health benefits without proper funding; and

Whereas, having state officials work together to monitor the development and regulation of the employee leasing industry will benefit employers, employees and the leasing industry directly; 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-A MRSA §601, sub-§24 is enacted to read:

24. Multiple-employer welfare arrangements.
Applications for authorization \$500.

Sec. 2. 24-A MRSA §2612-A, sub-§2-A is enacted to read:

2-A. Notwithstanding subsections 1 and 2, an employee leasing company registered pursuant to Title 32, chapter 125 qualifies as an eligible group for purposes of the purchase of group life insurance as provided in this section.

Sec. 3. 24-A MRSA §2808, sub-§2-A is enacted to read:

2-A. Notwithstanding subsections 1 and 2, an employee leasing company registered pursuant to Title 32, chapter 125 qualifies as an eligible group for purposes of the purchase of group life insurance as provided in this section.

Sec. 4. 24-A MRSA §2884, as enacted by PL 1983, c. 801, §11, is amended to read:

§2884. Legal services insurance authorized to be sold on a group basis

~~Any~~ An insurance company authorized to write legal services insurance in this State, which for the purposes of this chapter only ~~shall be deemed to be~~ is considered a form of health insurance, ~~shall have~~ has the power to issue group legal services insurance policies or may, by providing for the mental and emotional welfare of individuals and members of ~~his~~ an individual's family by defraying the costs of legal services, include legal services insurance in and as a part of a group health insurance policy. Group legal services insurance is that form of voluntary legal services insurance covering employees or members, with or without their eligible dependents, written under a master policy issued to any governmental corporation, unit, agency or department or to any employer ~~or~~ association of employers or employee leasing company registered pursuant to Title 32, chapter 125, including the trustee or trustees of a fund established by that employer ~~or~~ association of employers or registered employee leasing company, a labor union or other employee organization, including the trustees of a fund established by that labor union or employee organization. The terms "employee" and "employees" ~~shall~~ have the same meaning as are given to those terms for the purposes of writing group life

insurance in this State. Legal services insurance ~~shall~~ may only be permitted to be issued in this State on a group policy basis.

Sec. 5. 24-A MRSA §6601, sub-§5, as enacted by PL 1993, c. 688, §1, is amended to read:

5. Multiple-employer welfare arrangement. "Multiple-employer welfare arrangement" or "arrangement" means an employer welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers or to their beneficiaries. For the purposes of this chapter only, an employer welfare benefit plan or any other arrangement that, after April 30, 1996, is established or maintained for the purpose of offering or providing health benefits to employees leased to client companies by an employee leasing company required to be registered under Title 32, chapter 125 must be treated as a multiple-employer welfare arrangement within the meaning of this chapter. "Multiple-employer welfare arrangement" does not include a plan or arrangement established or maintained before January 1, 1993 by the State, a political subdivision of the State or an association composed of political subdivisions of the State primarily to cover its employees, former employees or their dependents, nor does it include a plan or arrangement established or maintained under or pursuant to one or more agreements deemed collective bargaining agreements under the federal Employee Retirement Income Security Act of 1974, Section 3(40)(A)(i), as amended. For purposes of this chapter, 2 or more trades or businesses, whether or not incorporated, are deemed a single employer if those trades or businesses are under common ownership or within the same control group as defined under the federal Employee Retirement Income Security Act of 1974, Section 3(40)(B). For the purposes of this chapter only, each of an employee leasing company's client companies, as defined in Title 32, section 14051, is considered a separate employer as long as it is not deemed a single employer under this subsection.

Sec. 6. 24-A MRSA §6603, as enacted by PL 1993, c. 688, §1, is amended by enacting a new first paragraph to read:

This section governs all multiple-employer welfare arrangements except for those offered by a registered employee leasing company complying with the requirements of section 6603-A.

Sec. 7. 24-A MRSA §6603-A is enacted to read:

§6603-A. Employee leasing companies

An employee leasing company that provides health benefits on other than a fully insured basis for

employees leased to client companies shall comply with the requirements of this section.

1. Requirements for approval. The arrangement must meet the requirements of this subsection to obtain approval to establish a multiple-employer welfare arrangement or to maintain operations of a multiple-employer welfare arrangement.

A. The employee leasing company must be registered in this State in accordance with Title 32, chapter 125.

B. Within 4 months of the end of each fiscal year or within such extension of time as the superintendent for good cause may grant, the arrangement shall file with the superintendent an annual financial report certified by an independent certified public accountant. The report must include a letter of qualification from the accountant that meets the requirements of section 6611, subsection 1-A. The report must provide the name and address of the insurer providing excess insurance and it must also include an analysis of the adequacy of reserves and contributions or premiums charged based on a review of past and projected claims and expenses.

C. Within 45 days of the end of each fiscal quarter, the arrangement shall file with the superintendent a letter from an independent certified public accountant attesting to the following:

(1) That the employees have been paid in a timely fashion;

(2) That all payroll taxes and income taxes withheld have been paid to the appropriate state or federal agency in a timely fashion;

(3) With respect to any health care benefits provided on other than a fully insured basis, that specific excess insurance is maintained with a retention level adequate for the plan; and

(4) With respect to any health care benefits provided on other than a fully insured basis, that appropriate loss and loss expense reserves are maintained that are adequate for the plan.

D. Any necessary excess insurance must be purchased from an insurer licensed to transact health or casualty insurance in the State.

E. The arrangement shall issue to each covered employee a contract, certificate, summary plan description or other evidence of the benefits and coverages provided. This evidence of the bene-

fits and coverages provided must contain in bold-face print in a conspicuous location the following statement: "The benefits and coverages described herein are provided by [name of employee leasing company] on a self-insured basis, not through a contract with a commercial insurance carrier." If the benefit plan or arrangement was in existence before April 30, 1996 and had previously issued benefit descriptions to the covered employees, the arrangement shall issue to each employee the additional written material necessary to meet the requirements of this paragraph.

F. The arrangement must pay the filing fee specified in section 601 at the time of the application for approval.

2. Application for approval. To obtain approval, an arrangement must submit a letter of application to the Superintendent that includes or has attached the material required by subsection 1. If any information is not available at the time of application, the arrangement shall specify in the letter when that information will be provided. The superintendent, in the superintendent's discretion, may grant approval of an arrangement conditioned upon the timely receipt of the required information if the superintendent determines that the arrangement is funded at a level consistent with the purposes of this chapter.

3. Other provisions. An arrangement approved pursuant to the requirements of this section is also subject to the requirements of sections 6606, 6607, 6610, 6614 and 6616.

4. Grounds for denial, suspension or revocation of arrangement. The superintendent, in the superintendent's discretion, may deny, suspend or revoke the authorization granted pursuant to this section if the superintendent finds that the arrangement has failed to meet the requirements of this section, has refused to produce the required financial information or has refused to correct a deficiency determined pursuant to section 6606. When failure to maintain compliance with the requirements of this section is the grounds for suspension or revocation of authority of an arrangement, the arrangement has 60 days after notification by the superintendent to take action necessary to correct the deficiency.

Sec. 8. 24-A MRSA §6604, sub-§§7 and 8, as enacted by PL 1993, c. 688, §1, are amended to read:

7. Evidence of sound actuarial principles. Evidence satisfactory to the superintendent showing that the arrangement will be operated in accordance with sound actuarial principles. The superintendent may not approve the arrangement unless the superin-

tendent determines that the plan is designed to provide sufficient revenues to pay current and future liabilities, as determined in accordance with sound actuarial principles; ~~and~~

8. Additional information. Additional information that the superintendent may reasonably require; ~~and~~

Sec. 9. 24-A MRSA §6604, sub-§9 is enacted to read:

9. Filing fee. The filing fee specified in section 601.

Sec. 10. 24-A MRSA §6606, sub-§1, as enacted by PL 1993, c. 688, §1, is amended to read:

1. Examination of finances. The superintendent may conduct, upon reasonable notice, an examination to determine the financial condition of an arrangement. Examiners For arrangements subject to the requirements of section 6603-A, the examination must be limited to the work of the certified public accountant conducting the annual audit or submitting the quarterly filings required by that section. For all other arrangements, examiners duly qualified by the superintendent may examine the loss reserves, assets, liabilities, excess insurance and working capital of a multiple-employer welfare arrangement. If the superintendent finds that the reserves, excess insurance or assets may be inadequate, or that the arrangement does not have working capital in an amount establishing the financial strength and liquidity of the arrangement to pay claims promptly and showing evidence of the financial ability of the arrangement to meet its obligations to covered employees, the superintendent shall notify the arrangement of the inadequacy. Upon notification, the arrangement shall file within 30 days with the superintendent its written plan specifying remedial action to be taken and the time for implementation of that plan.

Sec. 11. 24-A MRSA §6607, first ¶, as enacted by PL 1993, c. 688, §1, is amended to read:

If the superintendent determines that a multiple-employer welfare arrangement has failed to establish or maintain the actuarially indicated level of funding ~~in the trust account as required,~~ the superintendent may require the arrangement to file a security deposit or a surety bond in accordance with this section.

Sec. 12. 24-A MRSA §6610, as enacted by PL 1993, c. 688, §1, is amended to read:

§6610. Termination

If an arrangement is terminated for any reason, the trust may not be dissolved until all outstanding

claims, debts and obligations of the arrangement are paid. The arrangement may retain sufficient funds to provide coverage for ~~such an~~ additional period as the trustees of the arrangement consider prudent. In addition, the trustees may purchase ~~such~~ additional insurance ~~as~~ they consider necessary for protection against potential future claims. Any funds remaining in the arrangement after satisfaction of all obligations must be paid to participating employers or covered employees in an equitable manner meeting with the approval of the superintendent, including, without ruling out other alternatives, equally on a per capita basis to each participating employer or employee who is covered under the arrangement as of the effective date of termination. Written notice of the termination of the arrangement must be provided to each covered employee, the Department of Labor, Bureau of Labor Standards and the superintendent at least 10 days before the effective date of the termination.

If an arrangement provided by a registered employee leasing company is terminated for any reason, written notice of the termination of the arrangement must be provided by the employee leasing company to each covered employee, the client companies involved, the Department of Labor, Bureau of Labor Standards and the superintendent at least 10 days before the effective date of the termination.

Sec. 13. 24-A MRSA §6611, sub-§1-A is enacted to read:

1-A. Accountant's letter or qualification. The annual financial statement of the arrangement must include a letter of qualification from the certifying accountant stating:

A. That the accountant is independent with respect to the arrangement and conforms to the standards of the accountant's profession as contained in the code of professional ethics and pronouncements of the American Institute of Certified Public Accountants and the rules of professional conduct of the appropriate state Board of Accountancy or similar code;

B. The background and experience in general and the experience in audits or arrangements of the staff assigned to the engagement and whether each is an independent certified public accountant. This requirement may not be construed as prohibiting the accountant from utilizing staff as the accountant considers appropriate where that is consistent with the standards prescribed by generally accepted auditing standards;

C. That the accountant understands the annual audited financial report and the accountant's opinion will be filed in compliance with this requirement and that the accountant knows the superintendent will be relying on this information

in the monitoring and regulation of the financial position of the arrangement;

D. That the accountant consents and agrees to make available for review by the superintendent or the superintendent's designee or appointed agent, the accountant's workpapers relating to the arrangement. For purposes of this paragraph, workpapers are the records kept by the accountant of the procedures followed, the tests performed, the information obtained and the conclusions reached pertinent to the accountant's examination of the financial statements of the arrangement. Workpapers may include audit planning documents, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of arrangement documents and schedules or commentaries prepared or obtained by the accounts in the course of the accountant's examination; and

E. A representation that the accountant is properly licensed by an appropriate state licensing authority and that the accountant is a member in good standing in the American Institute of Certified Public Accountants.

Sec. 14. 24-A MRSA §6616, as enacted by PL 1993, c. 688, §1, is amended to read:

§6616. Regulatory authority

The superintendent may adopt, pursuant to Title 5, chapter 375, subchapter II, ~~such rules as that~~ the superintendent determines reasonable and necessary to carry out properly the functions and responsibilities assigned under the laws of this State. Rules adopted to implement the provisions of this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 15. 26 MRSA §1401, sub-§§3 and 4, as enacted by PL 1971, c. 620, §12, are amended to read:

3. Purchase. Coordinate the purchase and use of all the department equipment; ~~and~~

4. Review. Review the function and operation of the department to insure that overlapping functions and operations are brought to the attention of the Governor and Legislature;

Sec. 16. 26 MRSA §1401, sub-§5, as enacted by PL 1983, c. 469, §2, is amended to read:

5. Data collection. ~~The Commissioner of Labor shall conduct~~ Conduct a survey of manufacturing and nonmanufacturing industries throughout the State once every 2 years to determine hourly occupational wage rates by sex; and

Sec. 17. 26 MRSA §1401, sub-§6 is enacted to read:

6. Monitor employee leasing industry. Coordinate the efforts of the State to ensure that the employee leasing industry is developing in a manner that provides the greatest benefit to Maine employers while minimizing the financial risk to those employers and to the leased employees. The commissioner shall meet at least annually with representatives of the Bureau of Insurance, the Bureau of Taxation, the Department of Economic and Community Development, the Workers' Compensation Board, the Bureau of Labor Standards within the Department of Labor. This group shall develop written material for employers and new businesses that are considering using an employee leasing firm. The material must provide guidance for employers on what questions to ask to minimize their own financial risk and that of their employees. The material must also include instructions on how to obtain public information on employee leasing companies, such as information required for registration purposes. The commissioner shall meet with the state officials listed in this subsection on at least an annual basis to review the status of the employee leasing industry and update the written materials as needed.

Sec. 18. 32 MRSA §14051, sub-§1-A is enacted to read:

1-A. Commissioner. "Commissioner" means the Commissioner of Labor.

Sec. 19. 32 MRSA §14052, as enacted by PL 1991, c. 468, §4, is amended to read:

§14052. Registration required

An employee leasing company may not engage in business from offices in this State or enter into any contractual relationship with a client company for the purpose of providing employees for business conducted by the client company in this State unless the employee leasing company is registered under this chapter. An employee leasing company or person may not use the name or title "staff leasing company," "employee leasing company," "registered staff leasing company," or "staff leasing services company" or otherwise represent that it is registered under this chapter unless the entity or person is registered under this chapter.

Sec. 20. 32 MRSA §14053, as enacted by PL 1991, c. 468, §4, is amended to read:

§14053. Registration process

1. Statement. Except as otherwise provided in this section, each employee leasing company required to be registered under section 14052 shall provide the

~~superintendent~~ commissioner with information required by the ~~superintendent~~ commissioner on forms that the ~~superintendent~~ commissioner specifies. At a minimum, employee leasing companies shall provide the following information:

- A. The name or names under which the registrant conducts business;
- B. The address of the principal place of business of the employee leasing company and the address of each office it maintains in this State;
- C. The employee leasing company's taxpayer or employer identification number;
- D. A list by jurisdiction of each name under which the employee leasing company has operated in the preceding 5 years, including any alternative names, names of predecessors and, if known, successor business entities;
- E. A list of all persons or entities that own a 5% or greater interest in the employee leasing company at the time of application and a list of persons who formerly owned a 5% or greater interest in the employee leasing company; or its predecessors in the preceding 5 years; and
- F. A list of the cancellations or nonrenewals of workers' compensation insurance issued to the employee leasing company or its predecessors in the preceding 5 years. The list must include the policy or certificate numbers, names of insurers or other providers of coverage, dates of cancellation and reasons for cancellation. If coverage has not been canceled or has been renewed, the registration must include a sworn affidavit signed by the chief executive officer of the employee leasing company attesting to that fact.

2. Renewal. Prior to January 31st of each year or any other time fixed by the ~~superintendent~~ commissioner, each registrant shall renew its registration by notifying the ~~superintendent~~ commissioner of any changes in the information previously provided pursuant to this section.

3. List. The ~~superintendent~~ commissioner shall maintain a list of employee leasing companies registered under this chapter.

4. Forms. The ~~superintendent~~ commissioner may prescribe forms necessary to promote the efficient administration of this section.

5. Existing companies. ~~Any employee leasing company doing business in this State prior to the effective date of this section shall register with the superintendent within 30 days of the effective date of this section.~~

Sec. 21. 32 MRSA §14055, sub-§1, ¶A, as enacted by PL 1991, c. 468, §4, is repealed and the following enacted in its place:

A. A registered employee leasing company qualifies as an "other group" within the meaning of Title 24-A, sections 2612-A and 2808 for purposes of procurement of group life and health insurance with respect to employees leased to a client company. A registered employee leasing company qualifies as an eligible group within the meaning of Title 24-A, section 2884 for purchase of group legal services insurance. Any employee welfare plan or benefit, other than workers' compensation insurance, provided to employees leased to a client company on less than a fully insured basis may be provided only subject to and in accordance with Title 24-A, chapter 81.

Sec. 22. 32 MRSA §14055, sub-§5, as enacted by PL 1991, c. 468, §4, is amended to read:

5. Disclosure. The employee leasing company shall disclose to client companies services to be rendered, including costs, and the respective rights and obligations of the parties prior to entering into or receiving a leasing arrangement. This disclosure must include a statement that the client company may take complaints to the ~~Bureau of Insurance~~ Department of Labor.

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

Effective April 8, 1996.

CHAPTER 619

S.P. 635 - L.D. 1643

An Act to Clarify Certain Provisions Relating to 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, the Legislature adopted the Workers' Compensation Residual Market Deficit Resolution and Recovery Act on June 23, 1995; and

Whereas, the definition of "successor self-insured employer" and the applicable surcharge of a successor entity are unclear; and

Whereas, the Legislature wishes to clarify its intent regarding a successor self-insured employer; and

Whereas, the Legislature intends that this legislation be retroactive to June 23, 1995, when the Workers' Compensation Residual Market Deficit Resolution and Recovery Act was approved; 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 §2392, sub-§§22-A and 22-B are enacted to read:

22-A. Succession transaction. "Succession transaction" means an asset sale, merger, consolidation, reorganization or restructuring that creates a successor self-insured employer.

22-B. Successor self-insured employer. "Successor self-insured employer" means any self-insured employer that is a successor entity to another employer or employers doing business in this State. A successor self-insured employer includes any entity that purchases all or a portion of the assets of an employer or the surviving entity in any other merger, consolidation, reorganization or restructuring.

Sec. 2. 24-A MRSA §2393, sub-§2, ¶D, as enacted by PL 1995, c. 289, §11, is amended by amending subparagraph (2), division (c) to read:

(c) ~~Each~~ Except for a successor self-insured employer, 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 self-insured employer 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 pol-

icy year during which the self-insured employer was insured to 365 days.

Policy Year	Factor
1988	28.48%
1989	30.70%
1990	23.26%
1991	11.55%
1992	6.01%

Sec. 3. 24-A MRSA §2393, sub-§2, ¶D, as enacted by PL 1995, c. 289, §11, is amended by enacting subparagraph (2), division (d), subdivision (iv) to read:

(iv) Upon the request of a self-insured employer, including a successor self-insured employer or an administrator of a self-insurance group, the board may determine whether there was a factual inaccuracy in the information underlying a surcharge billing issued by the board for the fresh start period or whether the surcharge calculated by the board is consistent with the provisions of this subparagraph. The request must be filed within 180 days from the date on which the final payment is due and must be in writing, including a statement of the reason for the request and the amount, if known, of the alleged overcharge. If an appeal based upon an alleged overcharge is sustained, the board shall refund the overcharge, together with any investment earnings on those amounts. If a self-insured employer is aggrieved by the final action or decision of the board, or if the board does not act on the written request within 60 days, the self-insured employer may appeal to the superintendent within 60 days of such action or decision of the board. Notwithstanding a pending appeal, a self-insured employer must pay any surcharge billing issued by the board.

Sec. 4. 24-A MRSA §2393, sub-§2, ¶D, as enacted by PL 1995, c. 289, §11, is amended by

repealing subparagraph (2), division (g) and enacting the following in its place:

(g) A successor self-insured employer is subject to surcharge on the same basis as the predecessor employer would be if still actively doing business and self-insured. If a self-insured employer is the successor to more than one employer, then the successor employer's self-insured employer adjustment is the sum of each predecessor employer's self-insured employer adjustment multiplied by the ratio of the employer's surchargeable premium for the 12-month period immediately preceding the succession transaction to the combined surchargeable premium of all predecessor employers for that 12-month period.

(i) If one or more of the predecessor employers was insured at the time of the succession transaction, its self-insured employer adjustment is calculated pursuant to division (c), (h) or (i) as if it had become self-insured at the time of the succession transaction.

(ii) If business operations that were covered under a single workers' compensation policy or certificate of self-insurance authority are subsequently separately owned by virtue of any succession transaction, dissolution, reincorporation 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.

(iii) If substantial changes in operations during the 12-month period immediately preceding the succession transaction make the 12-month surchargeable premium an inappropriate measure of a predecessor employer's workers' compensation exposure prior to the transaction, the board may adopt procedures for calculating an annualized premium in

a manner consistent with the intent of this subparagraph.

Sec. 5. 24-A MRSA §2393, sub-§2, ¶D, as enacted by PL 1995, c. 289, §11, is amended by repealing subparagraph (2), division (h), subdivision (i).

Sec. 6. 24-A MRSA §2393, sub-§2, ¶D, as enacted by PL 1995, c. 289, §11, is amended by enacting subparagraph (2), division (i) to read:

(i) Except for any successor self-insured employer, 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.

Sec. 7. 39-A MRSA §403, sub-§3, ¶C, as enacted by PL 1995, c. 398, §2, is amended to read:

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. For the purpose of determining whether an actuarially determined fully funded trust has a surplus of funds in excess of that required by this subsection, the superintendent shall consider, based upon the group's audit for all completed plan years, only the following assets held outside the trust account: cash up to \$10,000; accounts receivable, limited to amounts collected and deposited in the trust account by the date of the surplus distribution; accrued interest on trust account assets that will be collected and deposited in the trust account within 6 months from the date of the surplus determination; tangible assets that will be converted to cash and deposited in the trust account prior to the distribution date of any surplus; and a letter of credit to be used to partially fund the trust to the extent allowed under this section and rules adopted by the superintendent, as supported in the actuarial review.

The superintendent shall consider cash held outside the trust account in excess of \$10,000 if the self-insurer provides, to the superintendent's satisfaction, documentation regarding why the money is being held outside the trust account. 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 review includes an evaluation of the completed year experience with claims evaluated not less than 6 months from the end of the plan year, or in the case of a group self-insurer in existence for at least 36 months, not less than 4 months from the end of the plan year; and

(c) Prior For individual self-insurers, 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~~ For individual self-insurers, funds may not be released from the trust or transferred between years except as approved by the superintendent. The governing body of a group self-insurer may at any time declare a surplus of funds above the required confidence level, but may only release funds after the completion of any plan year. The superintendent may request information regarding any such declaration. Any distribution of surplus must be based upon an actuarial review of all outstanding obligations for all completed plan years, an audited financial statement of the group for all completed plan years and a surplus distribution worksheet for all completed plan

years on a form approved by the superintendent. The group self-insurer must provide the required information within 10 days after the distribution. Any surplus declared or distributed pursuant to this paragraph is subject to adjustment after review by the superintendent within 60 days of the receipt of the required information. Any deficit below the required confidence level, as determined by the superintendent, that results from a distribution under this paragraph must be funded within 45 days from the date of the notice 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.

Sec. 8. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 24-A, sections 2392 and 2393 apply retroactively to July 1, 1995.

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

Effective April 8, 1996.

CHAPTER 620

H.P. 1303 - L.D. 1784

An Act to Amend the Home Health Laws

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

Sec. 1. 22 MRSA §2144, sub-§4, ¶D is enacted to read:

D. The department may petition the Superior Court to appoint a receiver to operate a home health agency in accordance with chapter 1666-A.

Sec. 2. 22 MRSA §2146, as amended by PL 1991, c. 591, Pt. J, §3, is further amended to read:

§2146. Fees

Each application for a license under this chapter must be accompanied by the fee established by the department. ~~No such fee may be refunded. The fee is not refundable. The department shall establish such fees on the basis of a sliding fee scale reflecting variations in size and scope of operations, but in no event may the fee exceed \$300. The department shall charge a nonrefundable fee of \$25 for any change to a license requiring reissuance of the full license during the term of the license. The change in status of a license to a provisional or conditional license requires an additional fee of \$100 payable at the time of issuance of such license.~~ All fees received by the department under this chapter must be paid into the State Treasury to the credit of the department for the purpose of reducing the costs of carrying out this chapter.

Sec. 3. 22 MRSA §2150-B is enacted to read:

§2150-B. Staff; hiring; policy

A home health agency must develop and implement written policies and procedures that prohibit abuse, neglect or misappropriation of client's property. Prior to hiring a certified nursing assistant or home health aid, the home health agency must verify with the Maine Registry of Certified Nursing Assistants that the individual is listed on the registry. The agency may not employ an individual who:

1. Court. Has been found guilty in a court of law of abuse, neglect or misappropriation of the property of an individual, corporation or entity in a health care setting; or

2. State survey agency. Has been found by the state survey agency to have abused, neglected or misappropriated the property of an individual, corporation or entity in a health care setting.

Sec. 4. 22 MRSA §7931, as enacted by PL 1983, c. 454, is amended to read:

§7931. Policy

It is the purpose of this chapter to develop a mechanism ~~whereby~~ by which the concept of receivership can be utilized for the protection of residents in long-term care facilities and clients of home health care providers. It is the intent of the Legislature that receivership ~~shall~~ be a remedy of last resort when all other methods of remedy have failed or when the implementation of other remedies would be futile.

Sec. 5. 22 MRSA §7932, sub-§§1-A and 3-A are enacted to read:

1-A. Client. "Client" means a person who receives services from a home health agency.

3-A. Home health care provider. "Home health care provider" means any business entity or subdivision of a business entity, whether public or private, proprietary or nonprofit, that is engaged in providing acute, restorative, rehabilitative, maintenance, preventive or health promotion services through professional nursing or another therapeutic service, such as physical therapy, home health aids, nurse assistants, medical social work, nutritionist services or personal care services, either directly or through contractual agreement, in a client's place of residence. This term does not apply to any sole practitioner providing private duty nursing services or other restorative, rehabilitative, maintenance, preventive or health promotion services in a client's place of residence or to municipal entities providing health promotion services in a client's place of residence. This term does not apply to a federally

qualified health center or a rural health clinic as defined in 42 United States Code, Section 1395x, subsection (aa) (1993) that is delivering case management services or health education in a client's place of residence. Beginning October 1, 1991 "home health care provider" includes any business entity or subdivision of a business entity, whether public or private, proprietary or nonprofit, that is engaged in providing speech pathology services.

Sec. 6. 22 MRSA §7933, sub-§1, as enacted by PL 1983, c. 454, is amended to read:

1. Grounds for appointment. The following circumstances ~~shall be~~ are grounds for the appointment of a receiver to operate a long-term care facility or home health care provider.

A. A facility or home health care provider intends to close but has not arranged at least 30 days prior to closure for the orderly transfer of its residents or clients.

B. An emergency exists in a facility or home health care provider ~~which~~ that threatens the health, security or welfare of residents or clients.

C. A facility or home health care provider is in substantial or habitual violation of the standards of health, safety or resident care established under state or federal regulations to the detriment of the welfare of the residents or clients.

This remedy is in addition to, and not in lieu of, the power of the department to revoke, suspend or refuse to renew a license under the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 7. 22 MRSA §7934, as enacted by PL 1983, c. 454, is amended to read:

§7934. Powers and duties of the receiver

1. Powers and duties. A receiver appointed pursuant to this chapter ~~shall have~~ has such powers as the court may direct to operate the facility or home health care provider and to remedy the conditions ~~which that~~ constituted grounds for the receivership, to protect the health, safety and welfare of the residents or clients and to preserve the assets and property of the residents or clients, the owner and the licensee. On notice and hearing, the court may issue a writ of possession in behalf of the receiver, for specified facility property.

The receiver shall make reasonable efforts to notify residents or clients and family that the facility or home health care provider is placed in receivership. The owner and licensee ~~shall be~~ are divested of possession and control of the facility or home health care provider during the period of receivership under such

conditions as the court ~~shall specify~~ specifies. With the court's approval, the receiver ~~shall have~~ has specific authority to:

A. Remedy violations of federal and state regulations governing the operation of the facility or home health care provider;

B. Hire, direct, manage and discharge any employees, including the administrator of the facility or home health care provider;

C. Receive and expend in a reasonable and prudent manner the revenues of the facility or home health care provider due during the 30-day period preceding the date of appointment and becoming due thereafter;

D. Continue the business of the home or home health care provider and the care of residents or clients;

E. Correct or eliminate any deficiency of the facility ~~which~~ or home health care provider that endangers the safety or health of the residents or clients, ~~provided that~~ if the total cost of the correction does not exceed \$3,000. The court may order expenditures for this purpose in excess of \$3,000 on application from the receiver; and

F. Exercise such additional powers and perform such additional duties, including regular accountings, as the court ~~deems~~ considers appropriate.

2. Revenues of the facility. Revenues of the facility ~~shall~~ must be handled as follows.

A. The receiver shall apply the revenues of the facility or home health care provider to current operating expenses and, subject to the following provisions, to debts incurred by the licensee prior to the appointment of the receiver. The receiver shall ask the court for direction in the treatment of debts incurred prior to appointment where such debts appear extraordinary, of questionable validity, or unrelated to the normal and expected maintenance and operation of the facility or home health care provider, or where payment of the debts will interfere with the purposes of the receivership. Priority ~~shall~~ must be given by the receiver to expenditures for current direct resident or client care. Revenues held by or owing to the receiver in connection with the operation of the facility ~~shall be~~ or home health care provider are exempt from attachment and trustee process, including process served prior to the institution of receivership proceedings.

B. The receiver may correct or eliminate any deficiency of the facility ~~which~~ or home health care provider that endangers the safety or health

of the resident or client, ~~provided that~~ if the total ~~costs~~ cost of the correction does not exceed \$3,000. On application by the receiver, the court may order expenditures for this purpose in excess of \$3,000. The licensee or owner may apply to the court to determine the reasonableness of any expenditure over \$3,000 by the receiver.

C. In the event that the receiver does not have sufficient funds to cover expenses needed to prevent or remove jeopardy to the residents or clients, the receiver may petition the court for permission to borrow for these purposes. Notice of the receiver's petition to the court for permission to borrow ~~shall~~ must be given to the owner, the licensee and the department. The court may, after hearing, authorize the receiver to borrow money upon specified terms of repayment and to pledge security, if necessary, if the court determines that the facility or home health care provider should not be closed and that the loan is reasonably necessary to prevent or remove jeopardy or if it determines that the facility or home health care provider should be closed and that the expenditure is necessary to prevent or remove jeopardy to residents or clients for the limited period of time that they are awaiting transfer. The purpose of this provision is to protect residents or clients and to prevent the closure of facilities ~~which~~ or home health care providers that, under proper management, are likely to be viable operations. This section ~~shall~~ may not be construed as a method of financing major repair or capital improvements to facilities ~~which that~~ that have been allowed to deteriorate because the owner or licensee has been unable or unwilling to secure financing by conventional means.

3. Avoidance of preexisting leases, mortgages and contracts. A receiver may not be required to honor ~~any~~ a lease, mortgage, secured transaction or other contract entered into by the owner or licensee of the facility or home health care provider if the court finds that:

A. The person seeking payment under the agreement has an ownership interest in the facility or home health care provider or was related to the licensee ~~of~~ the facility or the home health care provider by ~~any~~ a significant degree of common ownership or control at the time the agreement was made; or

B. The rental, price or rate of interest required to be paid under the agreement is in excess of a reasonable rental, price or rate of interest.

If the receiver is in possession of real estate or goods subject to a lease, mortgage or security interest ~~which that~~ the receiver is permitted to avoid and if the real estate or goods are necessary for the continued operation of the facility or home health care provider, the receiver may apply to the court to set a reasonable rental, price or rate of interest to be paid by the receiver during the term of the receivership. The court shall hold a hearing on the application within 15 days, and the receiver shall send notice of the application to any known owners and mortgagees of the property at least 10 days before the hearing. Payment by the receiver of the amount determined by the court to be reasonable is a defense to ~~any~~ an action against the receiver for payment or for the possession of the subject goods or real estate by ~~any~~ a person who received such notice.

Notwithstanding this subsection, there ~~shall~~ may not be ~~no~~ a foreclosure or eviction during the receivership by any person ~~where~~ if the foreclosure or eviction would, in view of the court, serve to defeat the purpose of the receivership.

4. Closing of the facility or home health care provider. The receiver may not close the facility or home health care provider without leave of the court. In ruling on the issue of closure, the court shall consider:

- A. The rights and best interests of the residents or clients;
- B. The availability of suitable alternative placements;
- C. The rights, interest and obligations of the owner and licensee;
- D. The licensure status of the facility or home health care provider; and
- E. Any other factors ~~which that~~ the court ~~deems~~ considers relevant.

When a facility or home health care provider is closed, the receiver shall provide for the orderly transfer of residents or clients to mitigate transfer trauma.

Sec. 8. 22 MRSA §§7935 and 7937, as enacted by PL 1983, c. 454, are amended to read:

§7935. Termination of receivership

The receivership ~~shall terminate~~ terminates when the court certifies that the conditions ~~which that~~ prompted the appointment have been corrected or, in the case of a discontinuance of operation, when the residents or clients are safely relocated. The court shall review the necessity of the receivership at least semiannually.

A receivership ~~shall~~ may not be terminated in favor of the former or the new licensee, unless ~~such that~~ that person assumes all obligations incurred by the receiver and provides collateral or other assurances of payment ~~deemed~~ considered sufficient by the court.

§7937. Court order to have effect of license

An order appointing a receiver under section 7933 ~~shall have~~ has the effect of a license for the duration of the receivership. The receiver ~~shall be~~ is responsible to the court for the conduct of the facility or home health care provider during the receivership, and ~~any~~ a violation of regulations governing the conduct of the facility or home health care provider, if not promptly corrected, ~~shall~~ must be reported by the department to the court.

See title page for effective date.

CHAPTER 621

H.P. 1311 - L.D. 1795

An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs

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

Sec. 1. 5 MRSA §20053, sub-§5, ¶¶C and D, as enacted by PL 1995, c. 499, §1 and affected by §5, are amended to read:

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~~ appropriately labeled 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, spilled or contaminated scheduled or prescription drugs or controlled substances;

Sec. 2. 5 MRSA §20053, sub-§7, as enacted by PL 1995, c. 499, §1 and affected by §5, is amended to read:

7. Employees. ~~Except as authorized by the Director of the Office of Substance Abuse, a~~ 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. The director may authorize an exception to this employment prohibition if the following circumstances exist:

A. Federal regulations do not prohibit such employment;

B. The prospective employee or contractor has obtained any required waiver from the federal Drug Enforcement Administration; and

C. The director determines that there is no substantial risk to the integrity of the program.

Promptly after authorizing an exception under this subsection, the director shall notify the Maine Drug Enforcement Agency and the law enforcement agency of the county or municipality in which the treatment program is located.

Sec. 3. 22 MRSA §2383-B, sub-§4, as enacted by PL 1995, c. 499, §3 and affected by §5, is repealed.

Sec. 4. 32 MRSA §13723, sub-§7, ¶C, as enacted by PL 1995, c. 499, §4 and affected by §5, is repealed.

See title page for effective date.

CHAPTER 622

H.P. 1268 - L.D. 1743

An Act to Establish Consistency between Federal and State Drinking Water Laws

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

Sec. 1. 22 MRSA §2613, sub-§1, as amended by PL 1979, c. 541, Pt. B, §28, is further amended to read:

1. Variances. The commissioner may grant one or more variances from an applicable state primary ~~water~~ drinking water regulation to a public water system, if the variance will not result in an unreasonable risk to the public health; and if:

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system ~~cannot~~ can not meet the maximum contaminant levels of ~~such~~ the drinking water regulation despite application of the best ~~feasible~~

technology, treatment techniques or other means;
or

B. Where a specified treatment technique for a ~~contaminate~~ contaminant is required by the state primary ~~water~~ drinking water regulation, the system demonstrates to the commissioner's satisfaction that ~~such~~ the treatment technique is not required to protect the public health because of the nature of the raw water source.

Prior to granting a variance, the commissioner shall provide an opportunity for public hearing pursuant to the Maine Administrative Procedure Act on the proposed variance. Variances may be conditioned on monitoring, testing, analyzing or other requirements to ~~insure~~ ensure the protection of the public health; and variances granted under paragraph A, ~~shall~~ must include a compliance schedule under which the public water system will meet each contaminant level for which a variance is granted as expeditiously as is feasible.

Sec. 2. 22 MRSA §2613, sub-§2, as amended by PL 1979, c. 541, Pt. B, §29, is further amended to read:

2. Exemptions. The commissioner may grant one or more exemptions from an applicable state primary ~~water~~ drinking water regulation to a public water system, if:

A. The exemption will not result in an unreasonable risk to the public health;

B. The public water system is unable to comply with the regulation due to compelling factors, which may include economic factors; and

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement.

Prior to implementation of a schedule for compliance with contaminant level or treatment technique requirements and for implementation of control measures, the commissioner shall provide notice and opportunity for public hearing pursuant to the requirements of the Maine Administrative Procedure Act. Each exemption ~~shall~~ must also be conditioned on monitoring, testing, analyzing or other requirements to ~~insure~~ ensure the protection of the public health; and ~~shall~~ must include a compliance schedule under which the public water system will meet each contaminant level for which an exemption is granted as expeditiously as is feasible ~~and in any event not later than 7 years after the adoption of the state primary drinking regulation.~~

Sec. 3. 22 MRSA §2613, sub-§4 is enacted to read:

4. Exemption; extended. The exemption is effective for up to one year after the date of the issuance of the exemption.

A. The final date for compliance provided in any schedule in an exemption may be extended for a period not to exceed 3 years after the date of the issuance of the exemption if:

(1) The public water system can not meet the standards without capital improvements that can not be completed within the period of the exemption;

(2) In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain financial assistance; or

(3) The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards.

B. In the case of a system that does not serve more than 500 service connections and that needs financial assistance for the necessary improvements, an exemption granted may be renewed for one or more additional 2-year periods if the system establishes that it is taking all practicable steps to meet the requirements established in the exemption.

Sec. 4. 22 MRSA §2614, sub-§3 is enacted to read:

3. Boil-water order. For the purposes of this section and section 2615, "boil-water order" means an order issued by the commissioner to protect the health of persons consuming water from a public water system that may be contaminated by pathogenic microorganisms.

The boil-water order may immediately require the supplier of water to complete public notification of the threat to public health pursuant to section 2615.

A boil-water order may be issued when, in the judgment of the commissioner, a threat to the public health may exist from the presence of pathogenic microorganisms in a public water system. A boil-water order may be issued without a prior public hearing and served on the supplier of water by personal service, certified mail or by any other method if receipt is acknowledged by the supplier of water. At the written request of a supplier of water, a public

hearing must be held on the boil-water order within 15 days of the receipt of the request.

Sec. 5. 22 MRSA §2615, sub-§1, as enacted by PL 1975, c. 751, §4, is repealed and the following enacted in its place:

1. Notification. A public water system shall notify the public of the nature and extent of possible health effects as soon as practicable, but not later than the time periods established under subsection 4, if the system:

A. Is not in compliance with a state drinking water rule;

B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules;

C. Is subject to a variance or an exemption granted under section 2613; or

D. Is not in compliance with the terms of a variance or an exemption granted under section 2613.

Public notification under this section must be provided concurrently to the system's local health officer and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws.

Sec. 6. 22 MRSA §2615, sub-§§3 to 5 are enacted to read:

3. Form of notification. In addition to the notification required under subsection 1, a public water system shall provide public notification by furnishing a copy of the information required under subsection 1 in accordance with this subsection. A public water system that may provide notification via newspaper or media may voluntarily provide notification to its customers via mail or hand delivery. Notification must be provided:

A. To a daily newspaper or the communications media covering the territory served by the system; or

B. When a public water system is not served by a daily newspaper or communications media, or when a public water system is a nontransient, noncommunity system, directly to its customers via hand delivery or through continuous posting in conspicuous places reasonably calculated to

reach the customers within the territory served by the system.

4. Timing of notification. A public water system shall provide public notification pursuant to subsection 3 on a notification schedule as follows:

A. When a boil-water order is properly issued to a public water system under section 2614, subsection 3, within 24 hours;

B. When a violation of a maximum contaminant level does not result in an acute risk to public health, when a treatment technique is required or when a schedule is contained within a variance or an exemption, within 14 days;

C. When a violation of a maximum contaminant level results in an acute risk to public health, within 72 hours of the identification of the violation;

D. For minor monitoring violations, as defined by the commissioner by rule, at least once annually;

E. For monitoring violations, other than for minor monitoring violations, within 90 days of the identification of the violation and at least once annually; and

F. For ongoing violations, once notification for a violation under this section has been provided, notification by mail delivery or by hand delivery at least once every 3 months for as long as the violation continues.

5. Rulemaking. The commissioner shall adopt rules establishing the procedures for the provision of public notification as required to comply with state and federal laws. Rules adopted pursuant to this section are minor technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 623

H.P. 1285 - L.D. 1765

An Act to Amend the Standards for Appointing the Guardian of a Minor

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

Sec. 1. 18-A MRSA §5-204, as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place:

§5-204. Court appointment of guardian of minor; conditions for appointment

The court may appoint a guardian or coguardians for an unmarried minor if:

(a) All parental rights of custody have been terminated or suspended by circumstance or prior court order;

(b) Each living parent whose parental rights and responsibilities have not been terminated or the person who is the legal custodian of the unmarried minor consents to the guardianship and the court finds that the consent creates a condition that is in the best interest of the child; or

(c) The person or persons whose consent is required under subsection (b) do not consent, but the court finds by clear and convincing evidence that the person or persons have failed to respond to proper notice or a living situation has been created that is at least temporarily intolerable for the child even though the living situation does not rise to the level of jeopardy required for the final termination of parental rights, and that the proposed guardian will provide a living situation that is in the best interest of the child.

A guardian appointed by will as provided in section 5-202 whose appointment has not been prevented or nullified under section 5-203 has priority over any guardian who may be appointed by the court but the court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within 30 days after notice of the guardianship proceeding.

If a proceeding is brought under subsection (c), the nonconsenting parent or legal custodian is entitled to court-appointed legal counsel if indigent.

If the court appoints a limited guardian, the court shall specify the duties and powers of the guardian, as required in section 5-105, and the parental rights and responsibilities retained by the parent of the minor.

Sec. 2. 18-A MRSA §5-212, sub-§(d) is enacted to read:

(d) The court may not terminate the guardianship in the absence of the guardian's consent unless the court finds by a preponderance of the evidence that the termination is in the best interest of the ward. The guardian has the burden of showing by a preponderance of the evidence that continuation of the guardianship is in the best interest of the ward. If the court does not terminate the guardianship, the court may dismiss subsequent petitions for termination

of the guardianship unless there has been a substantial change of circumstances.

See title page for effective date.

CHAPTER 624

H.P. 1177 - L.D. 1609

An Act to Provide Consistent Retirement Plan Options for Game Wardens, Marine Patrol Officers, Forest Rangers and Baxter State Park Authority Rangers

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 recently provided a new retirement option for game wardens, marine patrol officers and Baxter State Park Authority rangers and is now providing a similar option for forest rangers; and

Whereas, equitable treatment of forest rangers requires making this retirement option available 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. 5 MRSA §17711, as amended by PL 1987, c. 739, §§23 and 48, is repealed and the following enacted in its place:

§17711. Forest rangers

1. Before September 1, 1984. A forest ranger in the Department of Conservation, Bureau of Forestry 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 forest ranger has met the requirements for eligibility for retirement under section 17851, subsection 8; and

B. After meeting the eligibility requirements for retirement, at a rate of 6.5% of earnable compensation for the remainder of the forest ranger's employment as a forest ranger.

2. After August 31, 1984; option. A forest ranger in the Department of Conservation, Bureau of Forestry who was first employed in that capacity after August 31, 1984 and who elects the retirement option provided in section 17851, subsection 8-A shall contribute to the retirement system or have pick-up contributions made by the employer as provided in section 17852, subsection 7-A.

Sec. 2. 5 MRSA §17851, sub-§5-A, as enacted by PL 1995, c. 466, Pt. A, §2, is amended 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 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date 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. 3. 5 MRSA §17851, sub-§6-A, as enacted by PL 1995, c. 466, Pt. B, §3, is amended 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 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date 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. 4. 5 MRSA §17851, sub-§8-A is enacted to read:

8-A. Forest rangers after August 31, 1984; option. A forest ranger in the Department of Conservation who was first employed in that capacity after August 31, 1984 or who, if employed in that capacity before August 31, 1984, ceased to be employed in that capacity on or before that date and who subsequently became reemployed in that capacity after that date 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 7-A.

Sec. 5. 5 MRSA §17852, sub-§5-A, as enacted by PL 1995, c. 466, Pt. A, §3, is amended 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~~ January 1, 1997.

Sec. 6. 5 MRSA §17852, sub-§5-B is enacted to read:

5-B. Inland Fisheries and Wildlife officers exercising option; retirement before 55 years of age. For a person exercising the option provided in section 17851, subsection 5-A, who makes the payments required in subsection 5-A, and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6%

for each year that the person's age precedes 55 years of age.

Sec. 7. 5 MRSA §17852, sub-§6-A, as enacted by PL 1995, c. 466, Pt. B, §4, is amended 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 January 1, 1997.

Sec. 8. 5 MRSA §17852, sub-§6-B is enacted to read:

6-B. Marine resources officers exercising option; retirement before 55 years of age. For a person exercising the option provided in section 17851, subsection 6-A, who makes the payments required in subsection 6-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age.

Sec. 9. 5 MRSA §17852, sub-§7-A is enacted to read:

7-A. Forest rangers after August 31, 1984; option. The retirement benefit of a person qualifying under section 17851, subsection 8-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 forest ranger in the Department of Conservation on or after May 1, 1996, elects the option provided in section 17851, subsection 8-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 forest ranger in the Department of Conservation before May 1, 1996, elects the option provided in section 17851, subsection 8-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 May 1, 1996 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 8-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 8-A at any time after the date on which the person is first employed as a forest ranger in the Department of Conservation 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 May 1, 1996. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a forest ranger in the Department of Conservation on or after May 1, 1996 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 May 1, 1996 must make the election no later than January 1, 1997.

Sec. 10. 5 MRSA §17852, sub-§7-B is enacted to read:

7-B. Forest rangers exercising option; retirement before 55 years of age. For a person exercising the option provided in section 17851, subsection 8-A, who makes the payments required in subsection 7-A and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age.

Sec. 11. 5 MRSA §17852, sub-§11, as enacted by PL 1995, c. 466, Pt. C, §3, is amended 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 January 1, 1997.

Sec. 12. 5 MRSA §17852, sub-§12 is enacted to read:

12. Baxter State Park Authority rangers exercising option; retirement before 55 years of age. For a person exercising the option provided in section 17851, subsection 12, who makes the payments required in subsection 11, and who retires before reaching 55 years of age, the retirement benefit is determined as follows.

A. For members with 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that:

(1) The amount arrived at under subsection 1 is reduced by applying to that amount the percentage that a life annuity due at 55 years of age bears to the life annuity due at the age of retirement; and

(2) For the purpose of making the computation under subparagraph (1), the board-approved tables of annuities in effect at the date of the member's retirement are used.

For the purpose of calculating creditable service under this subsection only, "creditable service" includes time during which a member participated in the voluntary cost-savings plan or the voluntary employee incentive program, authorized by Public Law 1989, chapter 702, Part F, section 6 and Public Law 1991, chapter 591, Part BB and chapter 780, Part VV; or 10 years of combined creditable service under this Part and Title 3, chapter 29; or creditable service available to a member that the member was eligible to purchase on June 30, 1993 and that the member does purchase in accordance with rules adopted by the board.

B. For members who do not have 10 years of creditable service on July 1, 1993, the retirement benefit is determined in accordance with subsection 1, except that the benefit is reduced by 6% for each year that the person's age precedes 55 years of age.

Sec. 13. 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 17851, subsection 8-A. The retirement system shall also establish the procedure for election under that subsection.

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

Effective April 8, 1996.

CHAPTER 625

S.P. 711 - L.D. 1811

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. 1 MRSA §124, as amended by PL 1989, c. 700, Pt. A, §3, is further amended to read:

§124. Maine Business Women's Week

The Governor shall annually issue a proclamation setting aside the 3rd full week in October as Maine Business Women's Week. The proclamation ~~shall~~ must invite and urge the people of the State to observe the week in schools and other suitable places with appropriate ceremony and study. The Department of Education ~~and the Maine Commission for Women~~ may make appropriate information available to the people and the schools within the limits of ~~their budgets~~ its budget.

Sec. A-2. 5 MRSA §200-B, as amended by PL 1995, c. 225, §1 and repealed and replaced by c.

327, §1, 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, 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).

Sec. A-3. 5 MRSA §931, sub-§1, ¶L, as amended by PL 1991, c. 376, §17, is further amended to read:

L. The executive director, deputy director, general counsel and staff attorneys of the Maine Health Care Finance Commission; and

Sec. A-4. 5 MRSA §931, sub-§1, ¶L-1, as enacted by PL 1991, c. 376, §18, is repealed.

Sec. A-5. 5 MRSA §1825-B, sub-§2, ¶E, as amended by PL 1995, c. 42, §1 and c. 119, §2, is repealed and the following enacted in its place:

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;

Sec. A-6. 5 MRSA §3305, sub-§1, ¶H, as amended by PL 1995, c. 345, §1 and c. 465, Pt. B, §1 and affected by Pt. C, §2, is repealed and the following enacted in its place:

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 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 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;

Sec. A-7. 5 MRSA §3305, sub-§1, ¶K, as amended by PL 1995, c. 395, Pt. D, §2 and c. 465, Pt. B, §2 and affected by Pt. C, §2, is repealed and the following enacted in its place:

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 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;

Sec. A-8. 5 MRSA §3305, sub-§1, ¶L, as amended by PL 1995, c. 395, Pt. D, §3 and enacted by c. 465, Pt. B, §3 and affected by Pt. C, §2, is repealed and the following enacted in its place:

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. A-9. 5 MRSA §3305, sub-§1, ¶M, as enacted by PL 1995, c. 395, Pt. D, §4 and c. 465, Pt. B, §3 and affected by Pt. C, §2, is repealed and the following enacted in its place:

M. Administer a program of training and financial assistance for municipal code enforcement officers;

Sec. A-10. 5 MRSA §3305, sub-§1, ¶¶N and O are enacted to read:

N. 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

O. 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. A-11. 5 MRSA §5301, sub-§2, ¶E, as amended by PL 1995, c. 131, §1 and c. 162, §1, is repealed and the following enacted in its place:

E. Convictions for which incarceration for less than one year may be imposed and 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, the State Board of Nursing and the Emergency Medical Services' Board.

Sec. A-12. 5 MRSA §5303, sub-§2, as amended by PL 1995, c. 131, §2 and c. 162, §2, is repealed and the following enacted in its place:

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, the State Board of Examiners in Physical Therapy and the Emergency Medical Services' Board, the following 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 li-

censed profession, trade or occupation 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 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 that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

Sec. A-13. 5 MRSA §7501, as enacted by PL 1995, c. 54, §1, is amended to read:

§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 42 United States Code, Sections 12501 to 12682 (1994).~~

Sec. A-14. 5 MRSA §12004-A, sub-§41, as amended by PL 1995, c. 353, §1 and c. 394, §1, is repealed and the following enacted in its place:

<u>41. State Board of</u>	<u>\$35/Day Plus</u>	<u>32 MRSA</u>
<u>Alcohol and Drug</u>	<u>Expenses</u>	<u>§6201</u>
<u>Counselors</u>		

Sec. A-15. 5 MRSA §19204-A, first ¶, as amended by PL 1995, c. 319, §5 and c. 404, §15, is repealed and the following enacted in its place:

Except as otherwise provided by this chapter, persons who are the subjects of HIV tests must be offered pretest and post-test counseling. Persons who are authorized by section 19203-C or 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. Persons offered counseling under this section may decline the offer by signing a waiver

stating that counseling has been offered and is being declined.

Sec. A-16. 10 MRSA §1475, sub-§3, as amended by PL 1995, c. 65, Pt. A, §21 and affected by §153 and Pt. C, §15 and amended by c. 188, §2, is repealed and the following enacted in its place:

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 2 years following the sale of the motor vehicle.

As used in subsection 2-A and this subsection, "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-A, section 2251.

Sec. A-17. 10 MRSA §8001, sub-§§35 and 36, as amended by PL 1995, c. 389, §2 and repealed by c. 397, §10, are repealed.

Sec. A-18. 11 MRSA §9-407, sub-§1 is amended to read:

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement ~~of~~ release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of

the filing of the original and deliver or send the copy to such person.

Sec. A-19. 17-A MRSA §2, sub-§5-A, as enacted by PL 1989, c. 18, §1, is amended to read:

5-A. "Corrections officer" has the same meaning as in Title 25, section ~~2805~~ 2801-A, subsection 2, ~~paragraph C.~~

Sec. A-20. 17-A MRSA §805, sub-§1, ¶¶A and B, as amended by PL 1995, c. 224, §8 and c. 434, §1, are repealed and the following enacted in their place:

A. Damages or destroys property of another in an amount exceeding \$2,000 in value, having no reasonable ground to believe that the person has a right to do so;

B. Damages or destroys property in an amount exceeding \$2,000 in value, to enable any person to collect insurance proceeds for the loss caused;

Sec. A-21. 20-A MRSA §254, sub-§§8 and 9, as enacted by PL 1989, c. 889, §3, are amended to read:

8. Model hiring procedure. By January 1, 1991, the commissioner, in collaboration with organizations representing school boards, school administrators, teachers, ~~the Maine Commission for Women~~ and other interested parties, shall develop a model hiring procedure for school administrators. The counsel for the Maine Human Rights Commission appointed under Title 5, section 4566, subsection 3, shall review the model hiring procedure.

9. Statewide goal. The commissioner, in cooperation with organizations representing school boards, school administrators, teachers, ~~the Maine Commission for Women~~ and other interested parties, shall set a statewide target goal for the 5 years following the effective date of this subsection for the employment of women in positions requiring administrator certification. The commissioner shall review and update the target goal after 2 years and 4 years.

Sec. A-22. 20-A MRSA §8205, sub-§16, as amended by PL 1995, c. 368, Pt. LL, §3 and c. 485, §2, is repealed and the following enacted in its place:

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. A-23. 22 MRSA §2906, sub-§4, as repealed by PL 1995, c. 32, §2 and amended by c. 65, Pt. A, §60 and affected by §153 and Pt. C, §15, is repealed.

Sec. A-24. 24-A MRSA §1519, sub-§2, as amended by PL 1995, c. 329, §15 and repealed and replaced by c. 462, Pt. A, §46, is repealed and the following enacted in its place:

2. When an applicant is not licensed under this Title or licensed as an insurance agent, a broker or an adjuster in this State under laws now in force, the superintendent shall secure, as soon as is reasonably possible after filing of the application, appropriate background information with which to ascertain the applicant's character.

Sec. A-25. 24-A MRSA §2809-A, sub-§1-A, as amended by PL 1995, c. 189, §2 and affected by §4 and amended by c. 332, Pt. A, §9, is repealed and the following enacted in its place:

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, 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.

Sec. A-26. 24-A MRSA §4222, sub-§4, as amended by PL 1995, c. 332, Pt. L, §2 and repealed by Pt. O, §7, is repealed.

Sec. A-27. 24-A MRSA §6203, sub-§1, ¶B, as amended by PL 1995, c. 452, §§8 to 10, is further amended by amending subparagraph (18) to read:

(18) An actuarial study, certified by an actuary, demonstrating that the anticipated

revenues and other available financial resources will be sufficient to provide the services promised by the contract and indicating the method by which the reserve required by section ~~6215~~ 6215-A will be calculated;

Sec. A-28. 24-A MRSA §6215, as repealed and replaced by PL 1995, c. 452, §30, is repealed.

Sec. A-29. 24-A MRSA §6215-A is enacted to read:

§6215-A. 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. A-30. 25 MRSA §3504, as amended by PL 1979, c. 641, §7, is further amended to read:

§3504. Deposit of proceeds

Proceeds of the sale of the property at public auction, less reimbursement to the law enforcement

agency and others authorized of the reasonable expenses of custody, ~~shall~~ must be disposed of according to Title 33, chapter ~~27~~ 37.

Sec. A-31. 29-A MRSA §252, sub-§1, as amended by PL 1995, c. 65, Pt. A, §85 and affected by §153 and Pt. C, §15 and amended by c. 482, Pt. A, §2, is repealed and the following enacted in its place:

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 for a fee of \$5 each. Certified copies are an additional \$1. A person receiving a report by electronic transmittal shall pay the fee associated with that transmittal.

Sec. A-32. 29-A MRSA §558, sub-§1, as amended by PL 1995, c. 376, §2; c. 401, §1; and c. 482, Pt. A, §5, is repealed and the following enacted in its place:

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.

Sec. A-33. 29-A MRSA §588, sub-§1-A is enacted to read:

1-A. Minimum fine. 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. 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-34. 29-A MRSA §2412, sub-§1, ¶D, as affected by PL 1995, c. 65, Pt. A, §153 and amended by Pt. C, §11 and affected by Pt. C, §15 and repealed by c. 368, Pt. AAA, §11, is repealed.

Sec. A-35. 30-A MRSA §4358, sub-§1, ¶A, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

A. "Manufactured housing" means a structural unit or units designed for occupancy and constructed in a manufacturing facility and trans-

ported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building ~~which~~ that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of manufactured housing are included. Those 2 types are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," ~~which~~ that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, ~~which~~ that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and ~~which~~ that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

(a) This term also includes any structure ~~which~~ that meets all the requirements of this subparagraph; except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

(2) Those units commonly called "modular homes," ~~which~~ that the manufacturer certifies are constructed in compliance with Title 10, chapter ~~957~~ 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, ~~which~~ that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Sec. A-36. 32 MRSA §271-A, as repealed by PL 1995, c. 397, §25 and amended by c. 402, Pt. A, §11, is repealed.

Sec. A-37. 32 MRSA §2153-A, sub-§11, as amended by PL 1995, c. 397, §41 and c. 462, Pt. A, §56, is repealed and the following enacted in its place:

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, 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. A-38. 32 MRSA §2153-A, last ¶, as repealed and replaced by PL 1995, c. 397, §42 and amended by c. 462, Pt. A, §57, 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. A-39. 32 MRSA §9903, sub-§4, as repealed by PL 1995, c. 397, §97 and amended by c. 402, Pt. A, §29, is repealed.

Sec. A-40. 32 MRSA §9911, sub-§2, as repealed by PL 1995, c. 397, §100 and amended by c. 402, Pt. A, §34, is repealed.

Sec. A-41. 32 MRSA §12406, sub-§5, as repealed by PL 1995, c. 397, §103 and amended by c. 402, Pt. A, §37, is repealed.

Sec. A-42. 32 MRSA §12407, sub-§6, as repealed by PL 1995, c. 397, §104 and amended by c. 402, Pt. A, §38, is repealed.

Sec. A-43. 32 MRSA §12410, sub-§3, as repealed by PL 1995, c. 397, §105 and amended by c. 402, Pt. A, §41, is repealed.

Sec. A-44. 32 MRSA §14816, as enacted by PL 1995, c. 389, §4, is repealed and the following enacted in its place:

§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.

Sec. A-45. 32 MRSA §14817 is enacted to read:

§14817. Repeal

This Act is repealed July 1, 2000.

Sec. A-46. 36 MRSA §191, sub-§2, ¶Q, as amended by PL 1995, c. 395, Pt. S, §1 and c. 419, §31, is repealed and the following enacted in its place:

Q. The listing of special fuel suppliers possessing certificates under section 3204;

Sec. A-47. 36 MRSA §191, sub-§2, ¶R, as amended by PL 1995, c. 395, Pt. S, §2 and enacted by c. 419, §32, is repealed and the following enacted in its place:

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. A-48. 36 MRSA §191, sub-§2, ¶S, as enacted by PL 1995, c. 395, Pt. S, §3, is amended 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- ; and

Sec. A-49. 36 MRSA §191, sub-§2, ¶T is enacted to read:

T. 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. A-50. 36 MRSA §1952-A, as amended by PL 1995, c. 467, §18, 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 of the vehicle or watercraft has collected 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 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, 7824-F or 7854-A, ~~7824-B, 7824-E and 7824-F~~ to 7854-E.

Sec. A-51. 38 MRSA §480-B, sub-§10, as amended by PL 1995, c. 406, §13 and c. 460, §3 and affected by §12, is repealed and the following enacted in its place:

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 Salmon Authority; 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. A-52. 38 MRSA §480-U, as enacted by PL 1995, c. 287, §18, is repealed.

Sec. A-53. 38 MRSA §488, sub-§16, as enacted by PL 1995, c. 287, §5 and c. 493, §7 and affected by §21, is repealed and the following enacted in its place:

16. Small road quarry. A quarry regulated by the department under article 8 is exempt from review under this article.

Sec. A-54. 38 MRSA §488, sub-§19 is enacted to read:

19. 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.

Sec. A-55. PL 1993, c. 600, Pt. A, §198, first 2 lines are repealed and the following enacted in their place:

Sec. A-198. 32 MRSA §3263, first ¶, as repealed and replaced by PL 1989, c. 878, Pt. A, §95, is amended to read:

Sec. A-56. PL 1993, c. 737, §5, sub-§1, ¶C is amended to read:

C. One member of the ~~Joint Select Committee on Corrections~~ joint standing committee having jurisdiction over corrections matters appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and

Sec. A-57. PL 1995, c. 65, Pt. A, §8, first 2 lines are amended to read:

Sec. A-8. 5 MRSA §3360, sub-§2 sub-§3, ¶E, as enacted by PL 1991, c. 806, §3, is amended to read:

Sec. A-58. PL 1995, c. 397, §126, first line is repealed and the following enacted in its place:

Sec. 126. 38 MRSA §90-C, as enacted by PL 1983, c. 758, §16, is repealed and the following enacted in its place:

Sec. A-59. PL 1995, c. 450, §6, first 2 lines are amended to read:

Sec. 6. 17 MRSA §9564 §2859, sub-§7, as enacted by PL 1981, c. 43, is amended to read:

Sec. A-60. PL 1995, c. 466, Pt. D, §1 is amended to read:

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 ~~47584~~ 17851, subsections 5-A, 6-A or 12. The retirement system shall also establish the procedure for election under those subsections.

PART B

Sec. B-1. 7 MRSA §3923-C, sub-§2, as amended by PL 1995, c. 409, §7 and repealed by c. 490, §8, is repealed.

Sec. B-2. 7 MRSA §3923-C, sub-§2-A, as enacted by PL 1995, c. 490, §9, is amended 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 or wolf hybrids. A license is needed only for dogs or wolf hybrids 6 months of age or older. A kennel owner may not keep more than 10 dogs or wolf hybrids 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.

Sec. B-3. 17 MRSA §3203, as amended by PL 1995, c. 65, Pt. A, §55 and affected by §153 and Pt. C, §15 and amended by c. 87, §1, is repealed and the following enacted in its place:

§3203. Sales of motor vehicles prohibited

Except as provided in section 3203-A, any person who carries on or engages in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles; or who opens any place of business or lot 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 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 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 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-A, chapter 9, such person is subject to the suspension or revocation of those plates, as provided for in Title 29-A, section 903, for the violation of this section.

Sec. B-4. 18-A MRSA §5-804, Pt. 4, as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

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:

First witness Second witness

.....
(print name) (print name)

.....
(address) (address)

.....
(city) (state) (city) (state)

.....
(signature of witness) (signature of witness)

.....
(date) (date)

Sec. B-5. 21-A MRSA §1020-A, sub-§3, as enacted by PL 1995, c. 483, §15, is amended to read:

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~~ lateness required by ~~paragraph D~~ subsection 6 and shall notify the commission of any late reports subject to a penalty.

Sec. B-6. 24 MRSA §2325-A, sub-§5-C, ¶B, as amended by PL 1995, c. 332, Pt. G, §1 and repealed and replaced by c. 407, §1, is repealed and the following enacted in its place:

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.

Sec. B-7. Effective date. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 24, section 2325-A, subsection 5-C, paragraph B takes effect July 1, 1996.

Sec. B-8. 24-A MRSA §2843, sub-§5-C, ¶B, as amended by PL 1995, c. 332, Pt. G, §2 and repealed and replaced by c. 407, §6, is repealed and the following enacted in its place:

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.

Sec. B-9. Effective date. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 24-A, section 2843, subsection 5-C, paragraph B takes effect July 1, 1996.

Sec. B-10. 24-A MRSA §2849-B, sub-§1, as amended by PL 1995, c. 332, Pt. F, §4 and c. 342, §6, is repealed and the following enacted in its place:

1. Policies subject to this section. This section applies to all individual, group medical and blanket insurance policies except hospital indemnity, specified accident, specified disease, long-term care 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. B-11. 32 MRSA §2102, sub-§2, ¶D, as amended by PL 1993, c. 600, Pt. A, §110, is further amended to read:

D. Delegation of selected nursing services to assistants to nurses who have completed or are currently enrolled in a course sponsored by a state-approved facility or a facility licensed by the Department of ~~Professional and Financial Regulation~~ Human Services. This course must include a curriculum approved by the board. The board shall issue such rules concerning delegation as it considers necessary to ensure quality of health care to the patient;

Sec. B-12. 32 MRSA §6214-A, sub-§2-A, as enacted by PL 1995, c. 394, §15, is amended to read:

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.

This subsection is repealed October 1, 1996.

Sec. B-13. 36 MRSA §1760, sub-§47, as amended by PL 1995, c. 420, §1 and c. 478, §1 and affected by §2, is repealed and the following enacted in its place:

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 that provide free temporary emergency shelter or food for underprivileged individuals in this State. This subsection is repealed October 1, 1996;

Sec. B-14. 36 MRSA §1760, sub-§47-A is enacted to read:

47-A. Emergency shelter and feeding organizations. Beginning October 1, 1996, sales to incorporated nonprofit organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State;

Sec. B-15. 38 MRSA §435, first ¶, as amended by PL 1993, c. 196, §1, is further amended to read:

To aid in the fulfillment of the State's role as trustee of its waters and to promote public health, safety and the general welfare, it is declared to be in the public interest that shoreland areas be subject to zoning and land use controls. Shoreland areas include those areas within 250 feet of the normal high-water line of any great pond, river or saltwater body, within 250 feet of the upland edge of a coastal wetland, within 250 feet of the upland edge of a freshwater wetland except as otherwise provided in section 439-A 438-A, subsection 2, or within 75 feet of the high-water line of a stream. The purposes of these controls are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual

points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Sec. B-16. PL 1995, c. 173, §2 is repealed.

Sec. B-17. Retroactivity. That section of this Part that repeals Public Law 1995, chapter 173, section 2 applies retroactively to June 29, 1995.

PART C

Sec. C-1. 22 MRSA §3760-D, as repealed by PL 1995, c. 368, Pt. I, §1, is reenacted to read:

§3760-D. Special needs payment for recipients with excessive shelter costs

1. Amount of payment. The department shall provide a special housing allowance in the amount of \$75 per month for each assistance unit to recipients of Aid to Families with Dependent Children whose shelter expenses for rent, mortgage or similar payments, property insurance and property taxes equal or exceed 75% of their monthly assistance unit income. Effective July 1, 1994 the special housing allowance is limited to \$50 per month for each assistance unit. For purposes of this subsection "monthly assistance unit income" means the total of the unit's Aid to Families with Dependent Children monthly benefit, plus income countable under Aid to Families with Dependent Children program rules, plus child support received by the unit, excluding the so-called \$50 pass-through payment.

3-A. Federal approval. In the event that federal approval for the Aid to Families with Dependent Children housing special needs payment described in this section is not given, the department is directed to negotiate with the appropriate federal agency to seek such approval. Notwithstanding any provision in this section, the department may implement a different method or standard for determining the housing special need for the purposes of obtaining federal approval, so long as the target population described in subsection 1 receives substantially the same benefit. The department is directed to consult with advocates for recipients of Aid to Families with Dependent Children during any negotiations with a federal agency for approval of the housing special needs payment.

Sec. C-2. Retroactivity. That section of this Part that reenacts Title 22, section 3760-D is effective retroactively to June 29, 1995.

Sec. C-3. 24 MRSA §2904, as amended by PL 1995, c. 239, §1 and c. 385, §1, is repealed and the following enacted in its place:

§2904. Immunity from civil liability for volunteer activities

1. Health care practitioners. Notwithstanding any inconsistent provision of any public or private and special law, a licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services within the scope of that 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 is not liable for an injury or death arising from those services unless the injury or death was caused willfully, wantonly, recklessly or by gross negligence of the health care practitioner.

2. Retired physicians, podiatrists and dentists. Notwithstanding any inconsistent provision of any public or private and special law, a licensed physician, podiatrist or dentist who has retired from practice and 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, podiatrist's or dentist'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 is not liable for an injury or death arising from those services unless the injury or death was caused willfully, wantonly or recklessly by the physician, podiatrist or dentist. 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.

3. Terms. For the purpose of this section, the term:

A. "Dentist" means a person who practices dentistry according to the provisions of Title 32, section 1081;

B. "Health care practitioner" has the same meaning as provided in section 2502;

C. "Nonprofit organization" does not include a hospital; and

D. "Podiatrist" has the same meaning as provided in Title 32, section 3551.

Sec. C-4. 29-A MRSA §403, as amended by PL 1995, c. 6, §1 and repealed by c. 49, §1 and c. 50, §1, is repealed.

Sec. C-5. PL 1993, c. 732, Pt. A, §8 is amended to read:

Sec. A-8. 38 MRSA §1303-C, sub-§39, as amended by PL 1993, c. 424, §2 and affected by §3, is further amended to read:

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. ~~"Treatment" also means any process including but not limited to incineration designed to change the character of composition of any waste oil, as defined in rules adopted under section 1319-O, subsection 2, or biomedical waste so as to render the waste less hazardous.~~

Sec. C-6. PL 1995, c. 7, §2 is repealed.

Sec. C-7. Retroactivity. That section of this Part that repeals Public Law 1995, chapter 7, section 2 is effective retroactively to June 29, 1995.

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

Effective April 8, 1996, unless otherwise indicated.

CHAPTER 626

S.P. 727 - L.D. 1833

An Act to Clarify the Definition of Commercial Whitewater Outfitter

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 will not terminate until after the spring whitewater rafting season; and

Whereas, the provisions of this Act preclude potential criminal actions against whitewater rafting clubs; 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 §7365-A is enacted to read:

§7365-A. Noncommercial organizations that collect dues or fees; commercial whitewater outfitters license not required

Notwithstanding section 7363, subsection 6, an organization that collects dues or fees may conduct rafting trips on rapidly flowing rivers without obtaining a commercial whitewater outfitters license if the commissioner determines under the provisions of this section that the organization is a noncommercial organization. An organization is a noncommercial organization if the commissioner determines that the organization is:

1. Tax-exempt nonprofit corporations formed before March 1, 1996. A nonprofit corporation incorporated before March 1, 1996, including any council, troop or other organized local group affiliated with the corporation, that collects dues or fees from its members and for which conducting whitewater rafting is incidental to the purpose of the corporation. The organization wishing to conduct a rafting trip on a rapidly flowing river without a commercial license under the provisions of this subsection must file a written request with the commissioner at least 15 days before conducting that trip. The request must include the name of the organization conducting the trip and the time, location and number of persons participating in the trip. The commissioner may request any additional information from the organization necessary to make a determination under this subsection. Notwithstanding any other provision of this section, the commissioner may not allow any council, troop or other organized local group affiliated with the corporation to conduct more than 2 whitewater rafting trips in any one calendar year without obtaining a commercial whitewater outfitter's license; or

2. Noncommercial whitewater rafting clubs. A qualifying noncommercial whitewater rafting club. A "qualifying noncommercial whitewater rafting club" is a group that collects dues or fees from its members and that the commissioner determines to be organized solely to provide noncommercial whitewater rafting opportunities to its members. To be considered under this subsection, a club must provide to the commissioner the following information before January 1st of each year:

A. A list that includes the name, legal residence and home telephone number of each member of the club. That list must identify a member as the president of the club and must identify any other officers or board members of the club. An officer or a board member of the club may not be a commercial whitewater outfitter or a licensed whitewater guide. The commissioner may not accept more than one amended membership list

from a club in any calendar year. Only those persons whose names appear on a list filed under this paragraph may participate in a rafting trip of that club on any rapidly flowing river;

B. A statement signed by all board members, if any, and all officers of the club swearing that:

(1) The sole purpose of the club is to provide noncommercial whitewater rafting opportunities to its members;

(2) No member of the club, including officers and board members, receive any form of compensation from the club at any time, either while a member of the club or afterwards;

(3) The club will use its own rafting equipment and all fees or dues collected from club members are used only to purchase and maintain rafting equipment for use solely by the club; and

(4) The club will not employ or otherwise compensate any person for any service relating to rafting or accept any gifts of products or services from any commercial whitewater outfitter or licensed whitewater guide; and

C. Any other information the commissioner determines necessary. If the club is an incorporated entity, the commissioner shall require the club to submit a copy of the club's articles of incorporation. The commissioner may not consider any incorporated entity other than a tax-exempt, nonprofit corporation as a noncommercial whitewater rafting club.

When authorizing a noncommercial organization under this section to conduct whitewater rafting trips without a commercial license, the commissioner shall, when the commissioner determines necessary, place limits on that organization's whitewater rafting activities, including limits on the time and location of rafting activities, the number of persons that may participate in those rafting activities and the safety equipment required for rafting trips. The commissioner may reject a request under this section if the commissioner determines that granting the request would conflict with the river management objectives set forth in section 7364.

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

Effective April 8, 1996.

CHAPTER 627

H.P. 1355 - L.D. 1860

An Act to Amend the Petroleum
Market Share Act

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

Sec. 1. 10 MRSA §1673, sub-§3, as amended by PL 1993, c. 613, §2, is further amended to read:

3. Repeal. This section is repealed September 1, ~~1996~~ 2000.

Sec. 2. 10 MRSA §1681, as amended by PL 1993, c. 613, §3, is further amended to read:

§1681. Fees

Annually by September 1st, a person who operates or causes to be operated an oil terminal facility within the State, as defined in Title 38, section 542, subsection 7, and a person who is required to register with the Commissioner of Environmental Protection pursuant to Title 38, section 545-B, shall pay to the Attorney General a fee for each 10,000 gallons of home heating oil and motor fuel oil transported into the State during the previous 12-month period ending June 1st. Home heating oil or motor fuel oil that is subsequently exported from the State is excluded from computation, except that home heating oil sold to a retailer or retail outlet located outside the State that sells home heating oil at retail within the State is not excluded. The fee that must be paid by September 1, ~~1992~~ 1996 and for each subsequent year is ~~45¢~~ 40¢ for each 10,000 gallons or portion thereof. ~~The fee that must be paid by September 1, 1993 is 75.15¢ for each 10,000 gallons or portion thereof. The fee for each subsequent year is 40¢ for each 10,000 gallons or portion thereof.~~ The fees must be deposited in a dedicated, nonlapsing account, known as the Petroleum Marketing Fund. The Attorney General shall administer the fund. This section is repealed September 1, ~~1996~~ 2000.

See title page for effective date.

CHAPTER 628

H.P. 1272 - L.D. 1750

An Act to Implement the
Recommendations of the Maine Task
Force on Interstate Banking and
Branching

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

Sec. 1. 9-B MRSA §131, sub-§1-A is enacted to read:

1-A. Affiliate. "Affiliate" means any company that controls, is controlled by, or is under common control with another company. For purposes of this definition, "control" has the same meaning as in section 1011, subsection 4.

Sec. 2. 9-B MRSA §131, sub-§§2 and 3, as enacted by PL 1975, c. 500, §1, are amended to read:

2. Authorized to do business in this State. "Authorized to do business in this State" means that a financial institution or credit union is authorized to do the business of banking, if it is:

- A. Organized under provisions of this Title;
- B. Organized under provisions of prior laws of this State; and subject to the provisions of this Title; ~~or~~
- C. Organized under provisions of federal law and maintains ~~its principal office in~~ this State; as its home state;
- D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or
- E. Organized under provisions of law of a foreign country and maintains a branch in this State.

3. Branch. "Branch" means any office or facility of a financial institution where the business of ~~such financial institution banking~~ is conducted other than the institution's main office.

Sec. 3. 9-B MRSA §131, sub-§12-A, ~~¶¶B and C,~~ as enacted by PL 1975, c. 666, §2, are amended to read:

- B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~
- C. Organized under provisions of federal law and maintains ~~its principal office in~~ this State; as its home state;

Sec. 4. 9-B MRSA §131, sub-§12-A, ~~¶¶D and E~~ are enacted to read:

- D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or
- E. Organized under provisions of law of a foreign country and maintains a branch in this State.

Sec. 5. 9-B MRSA §131, sub-§12-B is enacted to read:

12-B. Deposit production office. "Deposit production office" means a branch of a financial institution or credit union authorized to do business in this State that is used primarily to generate deposits and does not reasonably meet the credit needs of the community that the branch serves, as determined by the superintendent. For purposes of this subsection, deposits include credit union share accounts.

Sec. 6. 9-B MRSA §131, sub-§17-A, ¶¶B and C, as enacted by PL 1975, c. 666, §3, are amended to read:

B. Organized under provisions of prior laws of this State and subject to the provisions of this Title; ~~or~~

C. Organized under provisions of federal law and maintains its principal office in this State; ~~as its home state;~~

Sec. 7. 9-B MRSA §131, sub-§17-A, ¶¶D and E are enacted to read:

D. Organized under provisions of federal law or laws of another state and maintains a branch in this State; or

E. Organized under provisions of law of a foreign country and maintains a branch in this State.

Sec. 8. 9-B MRSA §131, sub-§§20-A, 20-B, 29-A and 29-B are enacted to read:

20-A. Home state. "Home state" means:

A. With respect to a financial institution or out-of-state financial institution, the state under whose laws the financial institution or out-of-state financial institution is organized; or

B. With respect to a national bank or federal association, the state in which the main office of the national bank or federal association is deemed to be located under federal law.

20-B. Host state. "Host state" means a state, other than the home state of an out-of-state financial institution, national bank or federal association, in which the financial institution maintains a branch or seeks to establish and maintain a branch.

29-A. Out-of-state. "Out-of-state" means a foreign country or a state other than this State.

29-B. Out-of-state financial institution. "Out-of-state financial institution" means a financial institution organized under provisions of law of a foreign country or a state other than this State that

maintains, or seeks to establish and maintain, a branch in this State.

Sec. 9. 9-B MRSA §212, sub-§4 is enacted to read:

4. Contracts with other state and federal regulatory agencies. The superintendent may employ and engage experts, professionals or other personnel of other state and federal regulatory agencies as may be necessary to assist the bureau in carrying out its regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, chapter 155.

Sec. 10. 9-B MRSA §214, sub-§2-A is enacted to read:

2-A. Assessment on interstate branches of out-of-state financial institutions. To provide for the balance of the reasonable expenses incurred to fulfill the bureau's duty pursuant to this Title, including general regulatory costs, overhead, general office and administrative expenses, the superintendent may assess a fee to be paid by each out-of-state financial institution that operates one or more branches in this State. The amount and timing of payment of this assessment must be determined through rulemaking by the bureau, but in no event may the amount exceed \$500 per branch annually. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 11. 9-B MRSA §221, as amended by PL 1985, c. 763, Pt. A, §63, is repealed and the following enacted in its place:

§221. Examinations

1. Requirements. The superintendent shall examine each financial institution organized under the laws of this State at least once every 36 months or more frequently as the superintendent determines. The superintendent may examine an out-of-state financial institution operating branches in this State in order to determine compliance with the laws of this State and to ensure that the activities of each branch are conducted in a safe and sound manner.

The superintendent must have full access to the vaults, books and papers of the financial institution or branch of the out-of-state financial institution being examined. The superintendent may make any inquiries necessary to determine the condition of the financial institution or the branch of the out-of-state financial institution and its compliance with the laws of this State. The directors, incorporators, officers, employees and agents of a financial institution and the officers, employees and agents of the out-of-state financial institution, the branch of which is being

examined, shall furnish statements and full information to the superintendent or the superintendent's examiners related to the condition and standing of the institution or branch being examined and all matters pertaining to its business and management.

2. Exception. Notwithstanding the requirements set forth in subsection 1, the superintendent may accept the examination reports of other state, federal or foreign regulatory agencies as a method of satisfying such requirements in whole or in part.

3. Joint examinations with other state, federal or foreign regulatory agencies. In satisfaction of the examination requirements of this section, the superintendent may conduct joint examinations of financial institutions organized under the laws of this State or branches of out-of-state financial institutions operating branches in this State with other state, federal or foreign regulatory agencies. For purposes of this section, "joint examination" means an examination conducted simultaneously by 2 or more regulatory agencies in which one examination report is issued.

Sec. 12. 9-B MRSA §222, sub-§§1 and 4, as enacted by PL 1975, c. 500, §1, are amended to read:

1. General requirement. In addition to the reports required pursuant to this section, the superintendent shall have the power to may require, from a financial institution subject to his supervision and regulation organized under the laws of this State and from an out-of-state financial institution authorized to do business in this State, reports and other information from such those institutions at such those times and in such form as he deems the superintendent considers appropriate for the proper supervision and regulation of such those institutions.

4. Use of reports prepared for other state or federal regulatory agencies. The At the discretion of the superintendent, the reporting requirements imposed by of this section may be complied with by submitting to the superintendent copies of reports prepared for other state or federal regulatory agencies by the institution which that contain the information requested, unless the superintendent shall otherwise require.

Sec. 13. 9-B MRSA §224, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Records for superintendent. A financial institution authorized to do business in this State shall keep within this State such those books, accounts and records relating to all transactions as will that enable the superintendent to insure ensure full compliance with the laws of this State. The superintendent may

authorize such records to be maintained outside of this State for good cause.

Sec. 14. 9-B MRSA §226, sub-§3, as amended by PL 1975, c. 666, §7, is further amended to read:

3. Disclosure to others. The superintendent may disclose such the information specified in subsection 1 to the following persons or entities set forth below; provided that, However, the recipients thereof shall of the information may not disclose or make public information so communicated, except as authorized by the superintendent or pursuant to other provisions of this Title:

A. The Treasurer of State and the Commissioner of Business Professional and Financial Regulation;

~~B. The advisory board established pursuant to section 216;~~

C. State departments which that, in the opinion of the superintendent, require such this information;

D. Other persons, including other state, foreign or federal regulatory officials, who, in the opinion of the superintendent, require such this information to facilitate the general conduct of supervisory activities of the Bureau bureau;

E. A court of law or equity and then, but only with the written consent of the superintendent or pursuant to a special order of the court; and

F. To those persons or entities necessary in order to comply with provisions of this Title relating to disclosure or publication of certain applications, reports, statistics and information.

Sec. 15. 9-B MRSA §226-A is enacted to read:

§226-A. Cooperative agreements

The superintendent may enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory supervision of financial institutions authorized to do business in this State, including, but not limited to, information sharing, coordination of examinations and joint examinations.

Sec. 16. 9-B MRSA §231, sub-§1, as amended by PL 1985, c. 328, §§3 and 4, is repealed and the following enacted in its place:

1. Authority. The superintendent has the following authority over financial institutions, out-of-

state financial institutions, financial institution holding companies and subsidiaries thereof.

A. The superintendent may issue and serve an order upon an institution or company requiring the institution or company to cease and desist from the violation or practice if, in the opinion of the superintendent, a financial institution or its subsidiary, financial institution holding company or its subsidiary or out-of-state financial institution subject to the provisions of this Title is engaging in or has engaged in, or the superintendent has reasonable cause to believe that the institution or company is about to engage in, any of the following violations or practices:

(1) An unsafe or unsound practice in conducting the business of the financial institution or company;

(2) Violation of a law, rule or regulation relating to the supervision of the institution or company;

(3) Violation of any condition, imposed in writing, in connection with the approval of any application by the superintendent;

(4) Violation of any written agreement entered into with the superintendent; or

(5) An anticompetitive or deceptive practice, or one that is otherwise injurious to the public interest under chapter 24.

B. The superintendent may restrict the withdrawal of funds from one or more financial institutions in an order issued under paragraph A if, in the opinion of the superintendent, extraordinary circumstances make such action necessary and appropriate for the protection of depositors, shareholders or the public.

C. The order issued under paragraph A may require the officers or directors of the institution or company or subsidiary to take affirmative action to correct any violation or practice.

D. Before issuing a cease and desist order against an out-of-state financial institution operating one or more branches in this State, the superintendent shall request that the financial institution's home state regulatory agency undertake an enforcement action. If the home state regulatory agency is unwilling or unable to issue an enforcement action, the superintendent may then exercise the enforcement authority available under this section. The superintendent may take enforcement action against a branch of a foreign financial institution without requesting enforcement action be taken first by the foreign regula-

tory agency. Where, in the opinion of the superintendent, emergency conditions make such enforcement action immediately necessary for the protection of depositors, shareholders or the public, the superintendent may proceed without requesting enforcement by the home state regulatory agency.

Sec. 17. 9-B MRSA §232, first ¶, as enacted by PL 1975, c. 500, §1, is amended to read:

The superintendent ~~shall have the power to~~ may remove any officer or director of a financial institution organized pursuant to this Title ~~or any officer of a branch of an out-of-state financial institution authorized to do business in this State~~, in accordance with the procedures and subject to the conditions and limitations set forth in this section.

Sec. 18. 9-B MRSA §241, sub-§§8 to 10 are enacted to read:

8. Deposit production offices prohibited. A financial institution or credit union authorized to do business in this State is prohibited from operating deposit production offices in this State. Each financial institution or credit union authorized to do business in this State shall submit an annual report to the superintendent providing deposit and loan information considered necessary by the superintendent to monitor compliance with this section. If the superintendent determines that a deposit production office is being operated, the superintendent may issue a cease and desist order pursuant to chapter 23. The superintendent shall adopt rules that set forth the factors that the bureau shall consider in determining whether a branch is being operated as a deposit production office. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

9. Restrictions on the use of the terms "savings," "bank" and derivatives of those terms. This subsection governs the use of the terms "savings," "bank" and derivatives of those terms.

A. A person, if duly authorized under the laws of this State, another state or the United States to conduct the business of banking, may use as a part of the name or title under which it conducts business in this State the terms "saving," "savings," "savings bank," "bank," "banker," "trust," "trust company," "banking" or "trust and banking company."

B. Except as provided in paragraph A, a person, without prior written approval of the superintendent, may not use the terms "saving," "savings," "savings bank," "bank," "banker," "trust," "trust company," "banking" or "trust and banking company" or any derivatives of those

terms as part of the name or title under which business is conducted or as a designation of such business. In determining whether to grant written permission, the superintendent shall consider whether the business to be conducted is similar to the business of banking and whether using those terms or any derivatives of those terms could be deceptive or otherwise injurious to public interest.

C. This subsection does not apply to out-of-state financial institutions, corporations or partnerships that, in the ordinary course of their business, have to file with the Secretary of State in processing the routine disposition of assets acquired by legitimate business dealings.

D. A person who violates any provision of this subsection is subject to a civil penalty of not more than \$10,000 for each violation.

E. This subsection does not prohibit the use of any name of a person who was duly qualified to do business as a foreign corporation in that name under Title 13-A, section 1201 on February 1, 1996.

10. Deposit concentration. A financial institution authorized to do business in this State may not consolidate or merge or acquire all or part of a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition or merger, the financial institution would hold or control more than 30% of the total amount of deposits of financial institutions authorized to do business in this State that are attributable to branches located in this State; except, upon consideration of the decision-making criteria found in section 253, the superintendent may waive the 30% deposit concentration limit on a case-by-case basis. In calculating the amount of deposits that a financial institution authorized to do business in this State may hold or control under this section, credit union shares are added to the amount of deposits of financial institutions authorized to do business in this State that are attributable to branches located in this State. The 30% deposit concentration limit does not apply to credit unions authorized to do business in this State.

Sec. 19. 9-B MRSA §339-A, as enacted by PL 1987, c. 692, §4, is repealed and the following enacted in its place:

§339-A. Interstate branches and satellite facilities

1. Interstate branches. Except as provided for in chapter 37, this Title may not be construed as permitting a financial institution to establish a branch office or facility in any state other than this State and a financial institution not authorized to do business in

this State may not establish or operate a branch office or facility in this State.

2. Satellite facilities. Satellite facilities operated by financial institutions not authorized to do business in this State are prohibited according to this section. A financial institution organized pursuant to the laws of this State must provide notice to the superintendent in accordance with chapter 33 prior to the establishment of a satellite facility. A financial institution organized pursuant to laws of other states or the United States and authorized to do the business of banking in this State must provide notice to the superintendent in accordance with chapter 37 prior to the establishment of a satellite facility.

Sec. 20. 9-B MRSA c. 37 is enacted to read:

CHAPTER 37

**INTERSTATE BRANCHING, MERGERS,
CONSOLIDATIONS AND ACQUISITIONS**

§371. Applicability of chapter; fees

1. Applicability. The provisions of this chapter govern de novo establishment of interstate branches, interstate combinations and interstate branch acquisitions undertaken by a financial institution, out-of-state financial institution, federal association or national bank.

2. Fees. An application or notice required under this chapter is not complete unless accompanied by a fee payable to the Treasurer of State to be credited and used as provided in section 214. The superintendent shall establish the amount of the fee according to the requirements of section 373; the fee may not exceed \$2,500.

§372. Definitions

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

1. De novo branch. "De novo branch" means a branch of a financial institution, out-of-state financial institution, federal association or national bank, that is originally established by the financial institution as a branch and does not become a branch of that financial institution as a result of the acquisition by the financial institution of a financial institution or the acquisition of a branch of a financial institution or through the conversion, merger or consolidation with that institution or branch.

2. Interstate branch acquisition. "Interstate branch acquisition" means the purchase of one or more branches of a financial institution, out-of-state financial institution, federal association or national bank whose home state is different from the home

state of the acquiring financial institution, out-of-state financial institution, federal association or national bank and the transfer of any branches so acquired into branches of the acquiring financial institution, out-of-state financial institution, federal association or national bank.

3. Interstate combination. "Interstate combination" means the merger, acquisition or consolidation of financial institutions, out-of-state financial institutions, federal associations or national banks, that have different home states when the branches of the acquired financial institution, out-of-state financial institution, federal association, or national bank become branches of the resulting financial institution, out-of-state financial institution, federal association or national bank.

§373. Interstate combinations, branch acquisitions and de novo establishments

1. Authority. Interstate combinations are expressly authorized subject to the provisions of this chapter. Interstate branch acquisition and establishment of de novo branches are expressly authorized subject to the provisions of this chapter; however, the law of jurisdiction of any out-of-state financial institution, federal association or national bank proposing to establish or acquire one or more branches in this State must expressly authorize, under conditions no more restrictive than those imposed by the laws of this State as determined by the superintendent, the financial institution, federal association or national bank whose home state is this State to engage in interstate branch acquisition or establishment of de novo branches in that state.

2. Application requirements. When the resulting financial institution of any interstate combination, interstate branch acquisition or de novo branch establishment is a financial institution organized under the laws of this State, that financial institution must obtain prior approval of the superintendent before participating in the transaction. The application for the superintendent's approval must be filed in the form and manner prescribed by the superintendent in accordance with this chapter and chapters 33 and 35, as applicable. The superintendent shall approve or disapprove an application under this section in accordance with the requirements of section 252 and the superintendent may condition approval of the application, as necessary, to conform with the criteria set forth in section 253.

3. Notice requirements. When the resulting financial institution of any interstate combination, branch acquisition or de novo branch establishment is an out-of-state financial institution, federal association or national bank with a home state that is not this State, that out-of-state financial institution, federal

association or national bank must provide prior notice to the superintendent before participating in the transaction. Notice to the superintendent must:

A. Be in a form and contain that information prescribed by the superintendent, including, but not limited to, proof of compliance with this chapter, as applicable;

B. Be provided no later than 3 days after the date of filing an application for that transaction with the appropriate state or federal regulatory agency;

C. Include a copy of any application filed with the appropriate state or federal regulatory agency; and

D. Include payment of the fee pursuant to section 371.

The superintendent shall provide written response within 30 days of receipt of the notice. If the superintendent finds that the interstate combination, acquisition or establishment does not comply with applicable state law, including, but not limited to, the conditions and requirements of this chapter, the superintendent may file an objection with the appropriate state or federal regulatory agency that has primary responsibility for the applicant. In addition, if the superintendent finds that an interstate combination, branch acquisition or de novo establishment would be adverse to the public interest, the superintendent may bring an action in the name of the State pursuant to chapter 24.

§374. Authority for expedited transactions

Notwithstanding any other provision of law, or any charter, certificate of organization, articles of association, articles of incorporation or bylaw of any participating institution, the superintendent may order that an interstate combination or branch acquisition pursuant to section 373, subsection 1 become effective immediately, if the superintendent determines that the action is necessary for the protection of depositors, shareholders or the public. A person aggrieved by an interstate combination or branch acquisition pursuant to this section is entitled to judicial review of the superintendent's order in accordance with Title 5, chapter 375, subchapter VII.

§375. Applicable concentration limits

Any interstate combination or branch acquisition authorized pursuant to this chapter is subject to the deposit concentration limitations set forth in section 241, subsection 10.

§376. Activities of interstate branches

1. Branches of financial institutions organized under the laws of this State. Pursuant to this chapter,

a financial institution organized under the laws of this State that establishes and operates a branch in another state may conduct any activity at that branch that is permissible for a financial institution organized under the laws of the "host state" as defined in section 131, subsection 20-B. The financial institution shall provide prior written notice of the branch activity to the superintendent if the activity is not permissible in this State.

2. Branches of out-of-state financial institutions. The laws of this State, including, but not limited to, the laws regarding consumer protection, fair lending and establishment of intrastate branches, apply to any state branch of an out-of-state financial institution, federal association or national bank to the same extent as those laws apply to a state branch of a financial institution organized under the laws of this State. An out-of-state financial institution that maintains, or seeks to establish and maintain, a branch in this State pursuant to this chapter may not conduct any activity at that branch that is not permissible for a financial institution organized under the laws of this State.

§377. Corporate filing requirements

1. Applicability of Title 13-A. An out-of-state financial institution, federal association or national bank with a home state other than this State that seeks to establish and operate a branch in this State as the result of an interstate combination, branch acquisition or de novo establishment pursuant to this chapter shall comply with the filing requirements for foreign corporations under Title 13-A. The approval of the filing of an out-of-state financial institution, federal association or national bank by the Secretary of State does not authorize the operation of a branch in this State by an out-of-state financial institution, federal association or national bank until the notice required pursuant to subsection 2 has been filed.

2. Notice to the superintendent required. An out-of-state financial institution, federal association or national bank is not authorized to do business in this State pursuant to this chapter until copies of the documents filed with the Secretary of State pursuant to Title 13-A have been received by the superintendent.

§378. Effective date

This chapter takes effect January 1, 1997.

Sec. 21. 9-B MRSA §418 is enacted to read:

§418. Acting as agent

A financial institution or a financial institution not authorized to do business in this State may act as agent for a financial institution, out-of-state financial

institution, a financial institution organized under provisions of law of another state, federal association or national bank in accordance with this section.

1. Activities. A financial institution acting as agent may receive deposits, renew time deposits, close loans, service loans and receive payments on loans and other obligations. The list of permitted agency activities may be expanded through rulemaking. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

2. Limitations on activities. The agreement to act as agent must limit the activities to those specifically permitted under this section or as expanded through rulemaking. The institution acting as agent pursuant to an agency agreement may not be considered a branch of the contracting institution, nor is the contracting institution considered a branch of the institution acting as agent.

3. Notice required. A financial institution entering into an agency agreement shall file notice with the superintendent, in the form and manner prescribed by the superintendent, prior to engaging in the activities permitted under this section.

4. Relationship terms. An agency relationship between institutions must be on terms that are consistent with safe and sound banking practices and the superintendent may adopt rules to supplement the requirements of this section.

Sec. 22. 9-B MRSA §422, sub-§1, as amended by PL 1977, c. 621, is further amended to read:

1. Requirement. A financial institution organized under the laws of this State or a branch of an out-of-state financial institution authorized to do business in this State shall take such any action as may be necessary to have its deposits or accounts insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or by the its successors to such federal corporations. The institution may have its deposits or accounts insured by whichever corporation insures the deposits or accounts of that type of institution. The superintendent may waive this requirement for a financial institution with assets of less than \$500,000, if such institution demonstrates to the superintendent that it is satisfying a particular community need which cannot be sufficiently met by other financial institutions and that it has adequate security for its deposits or accounts. For purposes of this section, a branch of an out-of-state financial institution does not include a branch of a foreign bank that is not eligible for insurance of accounts by the Federal Deposit Insurance Corporation or its successors.

Sec. 23. 9-B MRSA §427, sub-§12, as enacted by PL 1975, c. 500, §1, is amended to read:

12. Superintendent's authority to permit withdrawals. Except as expressly limited by other provisions of this Title, the superintendent may authorize a financial institution or institutions, ~~by regulation,~~ to permit the withdrawal of funds on deposit by depositors, account holders or members of said institution or institutions, in such manner or by such methods as the superintendent may ~~deem~~ determine appropriate under the circumstances.

Sec. 24. 9-B MRSA §572, as amended by PL 1985, c. 647, §8, is repealed.

Sec. 25. 9-B MRSA §673, as amended by PL 1985, c. 647, §9, is repealed.

Sec. 26. 9-B MRSA §1011, sub-§2, as enacted by PL 1975, c. 500, §1, is amended to read:

2. Maine financial institution holding company. "Maine financial institution holding company" means any company ~~which whose home state is this State and that~~ has control over any financial institution authorized to do business in this State or has control over a company ~~which that~~ controls any such a financial institution; ~~provided that if a financial institution holding company described in section 1013, subsection 2 acquires control of a financial institution authorized to do business in this State, it shall not be deemed a "Maine financial institution holding company" unless the operations of its financial institution subsidiaries are principally conducted in the State of Maine.~~

Sec. 27. 9-B MRSA §1011, sub-§7, as enacted by PL 1983, c. 302, §1, is amended to read:

7. Non-Maine financial institution holding company. "Non-Maine financial institution holding company" means a financial institution holding company, ~~the operations of which are principally conducted outside whose home state is not~~ this State.

Sec. 28. 9-B MRSA §1011, sub-§8, as enacted by PL 1983, c. 302, §1, is repealed.

Sec. 29. 9-B MRSA §1011, sub-§§11 and 12 are enacted to read:

11. Home state. "Home state," with respect to a financial institution holding company, means the state in which the total deposits of all financial institution subsidiaries of that company are the largest on the later of July 1, 1966 or the date on which the company becomes a financial institution holding company under this Title.

12. Host state. "Host state," with respect to a financial institution holding company, means a state,

other than the home state of the company, in which the company controls or seeks to control a financial institution subsidiary.

Sec. 30. 9-B MRSA §1013, sub-§1, ¶C, as enacted by PL 1985, c. 642, §5, is amended to read:

C. Acquisition of more than 5% of the voting shares of a financial institution, ~~the operations of which are principally conducted outside of whose home state is not~~ this State, by a Maine financial institution or a Maine financial institution holding company.

Sec. 31. 9-B MRSA §1013, sub-§2, as amended by PL 1987, c. 90, §1, is repealed.

Sec. 32. 9-B MRSA §1013, sub-§3, as amended by PL 1983, c. 597, §3, is further amended to read:

3. Requirements for acquisition or establishment. A ~~non-Maine~~ financial institution holding company may establish, acquire or maintain control of a Maine financial institution or Maine financial institution holding company with prior approval of the superintendent, ~~when and for as long as~~ subject to the following conditions ~~are satisfied.~~

A. The Maine financial institution or Maine financial institution holding company to be established or acquired shall enter into an agreement with the superintendent to provide reports and permit examination of its records to the extent ~~deemed~~ considered necessary by the superintendent to ensure compliance with this section and other relevant provisions of this Title and any ~~regulations promulgated thereunder~~ rules adopted under this Title. If the financial institution to be established or acquired is federally chartered, the agreement may provide that compliance examination information ~~shall~~ must be provided by the federal agency responsible for supervision of that financial institution. The superintendent may specify the information ~~which that~~ requires verification, and ~~shall~~ must be provided a report of that status of compliance by the federal agency.

B. A Maine financial institution or Maine financial institution holding company, control of which is to be acquired or held, ~~shall~~ must have, on the date of acquisition or establishment, and shall maintain a minimum equity capital ~~which that~~ the superintendent determines acceptable given the market area to be served and the general plan of business of the Maine financial institution or Maine financial institution holding company. ~~In no event shall such equity capital be less than \$3,000,000 in the case of an establishment, or \$1,000,000 in the case of an acquisi-~~

~~tion.~~ Equity capital ~~shall~~ must be maintained consistent with sound banking practices.

C. A financial institution holding company may not consolidate or merge with or acquire all or part of a Maine financial institution or Maine financial institution holding company if, as the result of the consolidation, acquisition or merger, the financial institution holding company would hold or control more than 30% of the total amount of deposits of financial institutions authorized to do business in this State; except, upon consideration of the decision-making criteria found in section 253, the superintendent may waive the 30% deposit concentration limits on a case-by-case basis. In calculating the amount of deposits that a financial institution holding company may hold or control under this section, credit union shares are added to the amount of deposits of financial institutions authorized to do business in this State. However, the 30% deposit concentration limit does not apply to credit unions authorized to do business in this State.

Sec. 33. 9-B MRSA §1013, sub-§4, as amended by PL 1983, c. 597, §4, is repealed.

Sec. 34. 9-B MRSA §1015, sub-§2, as amended by PL 1987, c. 90, §3, is further amended to read:

2. Criteria for approval. Applications for approvals required in subsection 1 ~~shall~~ must be filed pursuant to procedures established by the superintendent. Action on those applications ~~shall~~ must be taken in accordance with the requirements of section 252 and ~~shall be~~ is subject to the standards set forth in section 253. ~~An application filed by a non-Maine financial institution holding company for the acquisition or establishment of a Maine financial institution or Maine financial institution holding company is subject to the additional requirement that the superintendent find that the proposal would bring net new funds into the State. An application by a Maine financial institution holding company to acquire or establish an out of state financial institution or financial institution holding company is subject to the additional requirement that the superintendent find that deposits of citizens and businesses of this State, held in the holding company's Maine subsidiaries, will continue to be invested in Maine loans and investments in a manner consistent with the company's historical performance and current economic conditions. Such a transaction is subject to the requirements of section 1013, subsection 3, paragraph A, and the superintendent may require the application to contain some or all of the information required in section 1013, subsection 4.~~

Sec. 35. 9-B MRSA §1015, sub-§3, as amended by PL 1983, c. 201, §5, is further amended to read:

3. Application fee. ~~No~~ An application for approval required in subsection 1 may ~~not~~ be deemed complete by the superintendent unless accompanied by an application fee of ~~\$2,500, payable to the Treasurer of State, to be credited and used as provided in section 214. No application for approval of an acquisition or establishment of a financial institution or financial institution holding company by an out of state company may be deemed complete by the superintendent unless accompanied by an application fee of \$5,000, payable to the Treasurer of State, to be credited and used as provided in section 214. The superintendent shall establish the amount of the fee according to subsection 1; the fee may not exceed \$7,500.~~

Sec. 36. 36 MRSA §5206-B, sub-§2, as amended by PL 1987, c. 841, §6, is further amended to read:

2. Maine assets. "Maine assets" means, for any taxable year for any taxable entity for which this State ~~is the home state,~~ a taxable entity's total ~~end-of-year~~ end-of-year assets as required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L, except for tangible personal property and real property located outside the State, loans secured by real or tangible personal property located outside the State if the entity operates a branch in the State where such property is located, loans not secured by real or tangible personal property if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address and credit card receivables if the customer's billing address is outside the State and the entity operates a branch in the state of the customer's billing address. For any financial institution for which this State is not the home state and that operates a branch in this State and is authorized to do the business of banking in this State pursuant to Title 9-B, section 131, subsection 17-A, "Maine assets" means that portion of the taxable entity's end-of-year assets required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, Schedule L comprising real and tangible personal property located in this State, loans secured by real or tangible personal property located in this State, loans not secured by real or tangible personal property if the customer's billing address is in this State and credit card receivables if the customer's billing address is in this State. The term includes, in the case of a unitary business, the tangible personal property and real property located in the State of any member of the affiliated group ~~which~~ that is not subject for the taxable year to taxation under Part 8. This property in the possession of a taxable entity at

year-end and located in the State is to be reported as a Maine asset by the possessor taxable entity.

Sec. 37. 36 MRSA §5206-B, sub-§4, as repealed and replaced by PL 1985, c. 783, §35, is amended to read:

4. Taxable entity. "Taxable entity" means any financial institution, including any federally chartered financial institution authorized to do business in this State, except a credit union, ~~and~~; any service corporation or subsidiary as defined in Title 9-B, section 131 ~~and~~; any financial institution holding company as defined in Title 9-B, section 1011, except that "control," as defined in Title 9-B, section 1011, ~~shall mean~~ subsection 4, means ownership of more than 50% of the voting stock owned directly or indirectly, ~~which that~~ is organized under the laws of this State or authorized to do business in this State, ~~which; or any financial institution for which Maine is not the home state and that operates a branch in this State and is authorized to do the business of banking in this State pursuant to Title 9-B, section 131, subsection 17-A, that~~ at any time during the taxable year realized Maine net income or had Maine assets.

Sec. 38. Nonseverability. Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 71, if the reciprocity provision for the establishment of branches by out-of-state financial institutions in Title 9-B, section 373, subsection 1 is declared invalid or determined to be unenforceable for any reason by a final order of any state or federal court of competent jurisdiction and that order has the effect of permitting out-of-state financial institutions to establish branches in this State on any basis other than expressly provided in Title 9-B, section 373, subsection 1, then the reciprocity provision for the establishment of branches by out-of-state financial institutions of section 373, subsection 1 is invalid and unenforceable and has no force or effect whatever. Any transaction establishing a branch in this State pursuant to section 373, subsection 1 and consummated prior to a determination of invalidity is unaffected by that determination and remains valid.

Sec. 39. Application. The sections of this Act that amend the Maine Revised Statutes, Title 36, section 5206-B, subsections 2 and 4 apply to tax years beginning on or after January 1, 1997.

See title page for effective date.

CHAPTER 629

H.P. 1366 - L.D. 1875

An Act Regarding the Food Stamp and Low-Income Home Energy 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 link between the food stamp program standard utility allowance and the Low-Income Home Energy Assistance Program is under consideration by the Federal Government and may cease to exist; and

Whereas, that link has provided additional assistance to approximately 7,000 Maine households in the amount of \$6,300,000 per year; and

Whereas, the Department of Human Services must be alerted to the risk to Maine households that would be caused by severing that link and must endeavor to secure higher benefit levels for those households; 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 §3108 is enacted to read:

§3108. Standard utility allowance

When the department becomes aware of any decisions made by a public entity or an entity operating a publicly subsidized assistance program that adversely impacts eligibility for, or the amount of assistance to, households receiving assistance under the food stamp program pursuant to section 3104, the department shall work in cooperation with that entity to achieve a resolution that minimizes the adverse impact on households receiving food stamp assistance.

1. Examination of options. When federal law governing either the food stamp program or the Low-Income Home Energy Assistance Program is amended to eliminate the eligibility link whereby the food stamp standard utility allowance is automatically available to households receiving low-income home energy assistance benefits, the department shall immediately:

A. Examine and, if feasible, seek a waiver or grant of demonstration authority from the federal Department of Agriculture to continue to use the food stamp standard utility allowance in determining the amount of food stamp benefits available to households that previously qualified for that allowance solely by reason of receipt of low-income home energy assistance benefits;

B. Determine, in cooperation with all appropriate entities operating publicly subsidized housing programs, a method of providing individualized bills or appropriate documentation for tenants in subsidized housing that would identify the tenants' shares of incurred heating costs, if doing so would qualify these tenants for the food stamp standard utility allowance;

C. Determine if federal law would permit the use of the standard utility allowance by households that previously qualified for that allowance solely on the basis of receipt of low-income home energy assistance benefits and implement that section of law if doing so would not result in any increase in the households' rent and energy costs or any reduction in food stamp allotments to either those households or any other households receiving food stamp assistance; and

D. If none of the alternatives listed in paragraphs A to C result in making the food stamp standard utility allowance available to households that had received it before the change in federal law, immediately estimate the General Fund cost of providing allotments to affected households in an amount equal to the amount they would have received had the federal law not been amended, and promptly provide that information to the joint standing committee of the Legislature having jurisdiction over human resources matters.

2. Notice. The department shall provide prompt written notice to households affected by any change in federal law related to the eligibility link between the food stamp program and the Low-Income Energy Assistance Program, or by any waiver received pursuant to this section, of the steps that households may take to gain eligibility for the food stamp standard utility allowance.

3. Waiver. The department shall immediately seek a waiver or demonstration authority to operate a demonstration project from the federal Department of Agriculture that would make the food stamp standard utility allowance available to households that incur a heating or cooling cost separate from their rent or mortgage, even if those bills are not based on actual usage as determined by individualized metering.

4. Revised waiver application. When federal approval for the waiver or demonstration authority described in this section is not granted, the department may submit a revised waiver request to accomplish the objectives of this section as fully as possible.

5. Limitation. This section must be implemented within the limits of the department's existing General Fund resources.

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

Effective April 8, 1996.

CHAPTER 630

S.P. 249 - L.D. 646

An Act to Create a Process for Identifying New Owners for Dams or Releasing Current Owners from Water Level Maintenance Obligations

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. 14 MRSA §8104-A, sub-§2, ¶A, as enacted by PL 1987, c. 740, §4, is amended to read:

A. The construction, ownership, maintenance or use of:

- (1) Unimproved land;
- (2) Historic sites, including, but not limited to, memorials, as defined in Title 12, section 601, subsection 1; ~~or~~
- (3) Land, buildings, structures, facilities or equipment designed for use primarily by the public in connection with public outdoor recreation; or
- (4) Dams;

Sec. 2. 38 MRSA §840, sub-§1, as amended by PL 1993, c. 370, §§9 and 10, is further amended to read:

1. Power. The commissioner may on the commissioner's own motion and shall, at the request of the owner, lessee or person in control of a dam, the Commissioner of Inland Fisheries and Wildlife; or the Commissioner of Marine Resources, or upon receipt of petitions from the lesser of at least 25% or 50 of the littoral or riparian proprietors or from a water utility having the right to withdraw water from the body of water for which the water level regime is sought, conduct an adjudicatory hearing for the purpose of establishing a water level regime and, if applicable, minimum flow requirements for the body of water impounded by any dam that is not:

A. Licensed Operating with a license or exemption issued by the Federal Energy Regulatory Commission or determined by the Federal Energy Regulatory Commission to be subject to the jurisdiction of that commission;

~~B. Authorized under the Federal Power Act, Section 23;~~

~~C. Used to store water for a downstream facility licensed by the Federal Energy Regulatory Commission or authorized under the Federal Power Act, Section 23, provided that the owner of the downstream facility possessed a majority ownership of the upstream dam as of January 1, 1983;~~

D. Operating with a permit setting water levels issued under the protection of natural resources laws, sections 480-A to 480-S; the site location of development laws, sections 481 to 490; the small hydroelectric generating facilities laws, sections 631 to 636; the land use regulation laws, Title 12, sections 681 to 689; or any other statute regulating the construction or operation of dams;
or

E. A dam regulated by one or more municipalities by ordinance or interlocal agreement pursuant to Title 30-A, chapter 187, subchapter VI; or

F. Regulated by the International Joint Commission.

Sec. 3. 38 MRSA c. 5, sub-c. I, art. 6 is enacted to read:

Article 6

RELEASE FROM DAM OWNERSHIP AND WATER LEVEL MAINTENANCE

§901. Petition for release; public notice

1. Petition. The owner of a dam that is not licensed or exempted from licensure by the Federal Energy Regulatory Commission may petition the department to initiate proceedings for release from

dam ownership or water-level maintenance under this article. The petition must include the following information:

A. The name, address and phone number of the dam owner;

B. The location of the dam;

C. A plan of the dam and brief descriptions of the condition of the dam and recent operation of the dam; and

D. Any other reasonable information the department determines necessary to implement this article.

The department shall notify the owner within 15 days of receipt of the petition if the department determines that the petition does not comply with the requirements of this section. If notice is not sent within 15 days, the petition is deemed to comply.

2. Public notice. Not more than 30 days before filing a petition, the dam owner shall publish notice of intent to file a petition under this article at least once in a newspaper circulated in the area in which the dam and impoundment are located. The dam owner shall notify by certified mail the persons listed in section 902, subsection 3, paragraphs B, C and D. The dam owner shall notify abutting property owners as provided in subsection 3. The dam owner shall also make a good faith effort to notify local, regional and statewide private organizations interested in fisheries, wildlife, conservation, recreation and environmental issues whose interests may be affected by the dam.

3. Notice to property owners. The dam owner shall send notice of the intent to file a petition by first class mail to persons who own property abutting the dam site, water impounded by the dam or waterways immediately downstream from the dam. If the dam owner chooses to meet the obligation to consult with property owners by holding a public meeting, as described in section 902, subsection 1, the dam owner shall include notice of the public meeting in the notice provided pursuant to this subsection.

The dam owner may request that a municipality send the required notice, but the dam owner is responsible for providing the notice if the municipality fails to do so. At the request of a dam owner, a municipality shall send notice of a petition filed under this article by first class mail to persons who own property in that municipality and who must be notified as provided in this subsection. The dam owner shall provide a sufficient number of copies of the notice to the municipality and shall reimburse the municipality for all costs incurred in providing the notice. County commissioners and tribal governments have the same obligation as municipalities under this subsection to

send notice to persons who own property within their respective jurisdictions.

§902. Consultation process

1. Consultation required. Within 180 days of filing a petition pursuant to section 901, a dam owner shall consult with the persons and entities listed in subsection 3 to determine whether any of them wish to assume ownership of the dam. During consultation with each person or group of persons, the owner shall explain the process set forth in this article and shall inform the person or group that the department may issue an order requiring release of the water impounded by the dam if a new owner is not located. A dam owner may meet the obligation to consult with property owners by holding a public meeting and consulting with the persons who appear at that meeting, as long as notice has been sent to each property owner as required in section 901.

2. Timing of consultation. Consultation prior to the filing of a petition meets the requirements of subsection 1 only if the dam owner, during the consultation, disclosed an intent to file a petition under this article and provided the information required in subsection 1.

3. Parties to consultation. The following persons must be consulted as provided in subsection 1:

A. Individuals and groups of persons, such as lake associations, who own property abutting the dam site, the water impounded by the dam or the waterway immediately downstream from the dam;

B. The Commissioner of Inland Fisheries and Wildlife, the Commissioner of Conservation and the Director of the Maine Emergency Management Agency;

C. The municipal officers of any municipality and the county commissioners of any unorganized area in which the dam or impoundment is located; and

D. Representatives of the tribal governments of Indian tribes or nations in whose territory a dam or impoundment is located.

4. Report to department. The dam owner shall file a report with the department within 180 days of filing a petition. The report must include:

A. Evidence that the owner complied with the notice requirements set forth in section 901;

B. Names and addresses of persons notified under section 901 and of parties consulted in accordance with this section; and

C. The results of the consultations and whether a new owner has been located.

At the request of the dam owner, the department shall extend the deadline for reporting up to an additional 180 days.

5. Evaluation of report. If the department determines, after reviewing the report, that the dam owner has not complied with the requirements of section 901 or this section, the department shall allow the dam owner a reasonable period of time to correct the deficiency. The department shall reject the petition if:

A. The deficiency has not been corrected within the specified time period; or

B. The department finds that a person was willing to assume ownership of the dam but the dam owner refused to transfer the property because that person refused to pay compensation, other than costs, for the transfer.

§903. Assessment of public value of dam

1. Notification of agencies. If a new owner was not located during the consultation process and the department has not rejected the petition, the department shall immediately notify the Department of Inland Fisheries and Wildlife, the Department of Conservation and the Maine Emergency Management Agency that an assessment of public value for the dam may be required.

2. Evaluation of fisheries and wildlife value. Within 60 days of receiving notice under subsection 1, the Department of Inland Fisheries and Wildlife shall review the following factors and determine whether the best interest of the public requires that department to assume ownership of the dam:

A. The cost of maintaining the dam;

B. The value to fisheries and wildlife of maintaining the dam; and

C. The value to fisheries and wildlife of releasing water from the dam.

The Department of Inland Fisheries and Wildlife shall notify the department of its determination. If the Department of Inland Fisheries and Wildlife determines, after considering these factors, that the best interest of the public requires it to assume ownership of the dam, the department shall issue an order directing the dam owner to transfer the dam to the Department of Inland Fisheries and Wildlife within a reasonable period of time. If the Department of Inland Fisheries and Wildlife determines that it will not assume ownership, the department shall notify the Department of Conservation.

3. Evaluation of public recreational value.

Within 60 days of receiving notice under subsection 2, the Department of Conservation shall review the following factors and determine whether the best interest of the public requires that department to assume ownership of the dam:

- A. The cost of maintaining the dam;
- B. The value to public recreation, conservation and public use of maintaining the dam; and
- C. The value to public recreation, conservation and public use of releasing water from the dam.

The Department of Conservation shall notify the department of its determination. If the Department of Conservation determines, after considering these factors, that the best interest of the public requires it to assume ownership of the dam, the department shall issue an order directing the dam owner to transfer the property to the Department of Conservation within a reasonable period of time. If the Department of Conservation determines that it will not assume ownership of the dam, the department shall notify the Maine Emergency Management Agency.

4. Evaluation of public safety value. Within 60 days of receipt of notice under subsection 3, the Maine Emergency Management Agency shall review the following factors and determine whether the best interest of the public requires that agency to assume ownership of the dam:

- A. The cost of maintaining the dam;
- B. The value to public safety, particularly flood protection, of maintaining the dam; and
- C. The value to public safety, particularly flood protection, of releasing water from the dam.

The Maine Emergency Management Agency shall notify the department of its determination. If that agency determines, after considering these factors, that the best interest of the public requires it to assume ownership of the dam, the department shall issue an order directing the dam owner to transfer ownership of the dam to the Maine Emergency Management Agency within a reasonable period of time.

§904. Notice of failure to locate new owner

If a new owner has not been located through the process set forth in sections 902 and 903, the department shall provide notice that a new owner for the dam has not been located and that the department intends to issue an order requiring the dam owner to release water from the dam in accordance with section 905. Notice must be sent by certified mail to each municipality in which the dam and impoundment are located, to county commissioners when the dam and

impoundment are located in unorganized territory and to tribal governments when the dam and impoundment are located on tribal territory. The department shall also publish notice of its intent to issue the order at least once in a newspaper circulated in the area in which the dam and impoundment are located.

§905. Order for release of water

1. Order. Not earlier than 30 days after providing notice as required in section 904, the department shall issue an order to the dam owner to release water from the dam in a manner that minimizes the impact of the release, including requirements for mitigation as appropriate. If the department receives a petition requesting additional time to negotiate assumption of ownership of the dam and the dam owner agrees, the department may delay issuance of the order for an additional period agreed to by the dam owner and the petitioners.

2. Impact of order. An order issued under this article does not supersede any property right granted by deed or other legal instrument. An order issued under this article supersedes an order issued under section 840.

§906. Property transfer provisions

1. Compensation. A dam owner is not prohibited from requesting compensation for the transfer of a dam pursuant to this article. The department may not issue a water release order pursuant to section 905 to a dam owner who has refused to transfer the dam to a person willing to assume ownership of the dam because that person refused to compensate the dam owner for the property. The department may not refuse to issue the order if the dam owner requested only payment or a share in payment of the costs of transfer.

2. Property rights transferred. When a dam is transferred pursuant to this article, the dam owner shall transfer all property rights necessary to maintain and operate the dam, to the extent owned by the dam owner. Those property rights include title to the dam and land under the dam, title to equipment and other personal property normally located at the dam site, flowage rights and access rights.

§907. Right to withdraw petition

A dam owner may at any time withdraw a petition filed under this article.

§908. Municipal actions on dam ownership

The municipal legislative body, as defined in Title 30-A, section 2001, of any municipality notified pursuant to section 901, subsection 2 must consider and act on the issue of dam ownership at a public

meeting. The meeting must be held no later than 60 days after the municipal officers receive notice under section 901. County commissioners notified under section 901 must also hold a public meeting to act on the issue of dam ownership not later than 60 days after receiving notification.

See title page for effective date.

CHAPTER 631

H.P. 618 - L.D. 828

An Act to Provide Affordable Access to Information Services in All Communities of the State through Enhanced Library and School Telecommunications

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

Sec. 1. 35-A MRSA §7101, sub-§3, as amended by PL 1993, c. 638, §1, is repealed.

Sec. 2. 35-A MRSA §7101, sub-§4 is enacted to read:

4. Information access. The Legislature further declares and finds that computer-based information services and information networks are important economic and educational resources that should be available to all Maine citizens at affordable rates. It is the policy of the State that affordable access to those information services that require a computer and rely on the use of the telecommunications network should be made available in all communities of the State without regard to geographic location.

Sec. 3. 35-A MRSA §7104-A is enacted to read:

§7104-A. Access to information services

1. Additional authority. To carry out the policy goals established by section 7101, subsections 1, 2 and 4 and to meet the requirements of sections 301 and 9103 pertaining to the establishment of just and reasonable rates, the commission may:

A. Require a telecommunications carrier offering intrastate telecommunications services to provide telecommunications services, including instruction and equipment related to such services, at reduced charges or at no charge to qualified libraries and schools for the establishment and use of a program providing access to information networks;

B. Require a telecommunications carrier offering intrastate telecommunications services to provide funds for qualified libraries and schools to obtain telecommunications services, including instruction and equipment related to such services, from other vendors if the provision of such services is found by the commission to be consistent with the policies described in this section; and

C. Establish a telecommunications access fund and require all telecommunications carriers offering telecommunications services in the State to contribute to the fund. The fund must be available, with any accumulated interest, to qualified libraries and schools to assist in paying the costs of acquiring and using advanced telecommunications technologies.

The authority granted to the commission under this subsection is in addition to any other authority granted by this Title.

2. Limitations. In carrying out the authority granted by subsection 1, the commission:

A. Shall limit the annual cost to each telecommunications carrier of all programs to not more than 1.5% of its intrastate revenues as determined by the commission;

B. Shall ensure that funds are collected from each telecommunications carrier in a competitively neutral manner;

C. Shall attribute any amount collected from a telecommunications carrier pursuant to subsection 1 as an offset to any required intrastate support mechanism developed by the commission to preserve and advance universal service; and

D. May not exercise that authority with respect to any telecommunications carrier other than a local exchange carrier serving more than 100,000 lines, until September 30, 1997, except to the extent required by federal law.

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

A. "Qualified library" means a public library as defined in Title 27, section 110, subsection 10; a research center as defined in Title 27, section 110, subsection 12; a library operated by a public school as defined in Title 20-A, section 1, subsection 24 that provides free public access to all advanced telecommunications services available at that library; or a library that provides free public access to all advanced telecommunications services available at that library and whose collection serves as a statewide resource, if the

commission determines, in consultation with the Maine Library Commission, that including that library as a qualified library is in the public interest.

B. "Qualified school" means a public school as defined in Title 20-A, section 1, subsection 24; a private secondary school approved under Title 20-A, section 2951; or a school that provides free public access to all advanced telecommunications services available at that school, if the commission determines, in consultation with the Department of Education, that including that school as a qualified school is in the public interest.

C. "Telecommunications carrier" and "telecommunications service" have the same meanings set forth in 47 United States Code, Section 153 (1996).

4. Review of progress; report. The commission shall report annually, beginning February 1, 1997, to the joint standing committee of the Legislature having jurisdiction over utilities matters on the following:

A. The progress made in meeting the goal of providing affordable access to advanced information services in all communities of the State without regard to geographic location, as established in section 7101, subsection 4;

B. The extent to which such affordable access to advanced information services is made available through qualified libraries and schools;

C. The progress made in reaching benchmarks established by the commission for the purpose of measuring the successes and shortcomings of any measures required by the commission pursuant to subsection 1. The benchmarks must include the number of qualified libraries and schools benefiting from such measures, the geographic distribution of those libraries and schools and the number of hours each qualified library or school is using advanced telecommunications technologies;

D. The use of funds expended in the previous year pursuant to subsection 1, the source of those funds and the planned expenditures for the next year. The report that is due February 1, 2000 must include recommendations for the disposition of any funds remaining in a telecommunications access fund established pursuant to subsection 1 upon the repeal of that subsection;

E. Whether toll barriers and the designation of calling areas are impeding the achievement of

the goal established in section 7101, subsection 4;

F. The extent to which the goal established in section 7101, subsection 4 is promoted or impeded by the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56, increased local telephone competition and cable television deregulation; and

G. Recommendations for legislation.

In preparing the report, the commission shall consult with the State Planning Office, the Public Advocate, the Department of Administrative and Financial Services, the Department of Education, the Maine Library Commission, representatives of low-income citizens, representatives of the business community and providers of telecommunications services. The commission shall provide copies of the report to the public, the Director of the State Planning Office and the Public Advocate sufficiently in advance of submittal of the final report to permit submittal of written comments on the commission's analysis and recommendations. The written comments of the Director of the State Planning Office and the Public Advocate must be included as attachments to the commission's final report.

The joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation regarding access to information services to the First Regular Session and Second Regular Session of the 118th Legislature.

5. Repeal. Subsections 1 and 2 are repealed on February 1, 2001.

Sec. 4. Construction. Notwithstanding the Maine Revised Statutes, Title 1, section 302, the mechanisms for providing public access to information services at schools and libraries throughout the State, as approved by the Public Utilities Commission in Docket Numbers 94-123 and 94-254, are considered adopted pursuant to the policy statement found in section 2 of this Act and the authority provided by section 3 of this Act.

Sec. 5. Retroactivity. This Act applies retroactively to May 1, 1995.

Sec. 6. Allocation. The following funds are allocated from the Telecommunications Access Fund to carry out the purposes of this Act.

1996-97

PUBLIC UTILITIES COMMISSION

Telecommunications Access Fund

All Other \$4,000,000

Provides an allocation to allow the Public Utilities Commission to distribute funds to qualified libraries and schools to offset the costs of acquiring and using telecommunications services.

See title page for effective date.

CHAPTER 632

H.P. 807 - L.D. 1124

An Act Regarding School Facilities and Debt Service Limits

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

Sec. 1. 20-A MRSA §15905, sub-§1, ¶A, as amended by PL 1993, c. 693, §1, is further amended to read:

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15603, subsection 8, paragraph A, to exceed the maximum limits specified in Table 1 in subsequent fiscal years.

Table 1

Fiscal year	Maximum Debt Service Limit
1990	\$48,000,000
1991	\$57,000,000
1992	\$65,000,000
1993	\$67,000,000
1994	\$67,000,000
1995	\$67,000,000
1996	\$67,000,000
1997	\$67,000,000
1998	\$67,000,000
1999	\$69,000,000
2000	\$70,000,000

Sec. 2. 20-A MRSA §15905, sub-§6 is enacted to read:

6. Facility maintenance plan required. The state board shall require a school administrative unit applying for state funds for a school construction project to establish a facility maintenance plan for the projected life cycle of the proposed school building. The department shall provide technical assistance to school administrative units in carrying out this section. Assistance must include, but is not limited to, the provision of a model facility maintenance plan and the provision of technical and other assessment information from the school facilities inventory under section 15917.

Sec. 3. 20-A MRSA §15917 is enacted to read:

§15917. School facilities inventory

1. Inventory. The department shall conduct an inventory of all public school facilities in the State through a survey sent to each school principal. For the inventory, the school principal shall identify each public school building and include the following information for each building for which that principal serves as the principal:

A. A systematic and comprehensive assessment of the physical condition of the building;

B. Building use statistics; and

C. A list of rooms by program area.

The survey must be completed by December 1, 1996.

2. Data base established. The department shall establish and maintain a school facilities data base. The data base must be available for inclusion in the education information system maintained by the Education Research Institute and established in section 10.

3. Inventory updated. The department shall update information from the inventory at least every 3 years.

Sec. 4. State Board of Education to convene study. The State Board of Education shall convene a study group to review and make recommendations on school construction issues. The chair of the state board shall appoint at least 6 members to the study group. The President of the Senate and the Speaker of the House of Representatives shall each appoint one member from the Joint Standing Committee on Education and Cultural Affairs to serve on the study group. The study group shall submit its report to the Joint Standing Committee on Education and Cultural Affairs by December 1, 1996. The study group shall consider the following issues:

1. Requiring a minimum local contribution from a school administrative unit for school construction

costs in any year in which the local share of school construction costs exceeds the debt service circuit breaker amount for that unit;

2. Revising the school construction project rating system by including consolidation as a criteria in the rating system. The study group must consider recommendations on including consolidation in the rating system made by the Department of Education, the State Board of Education and the Committee to Study Organizational and Tax Issues in Public Schools;

3. Further revising the school construction project rating system by adding to or subtracting from the current rating criteria, which include buildings and grounds, school population, programs and community use of facilities;

4. Use of state school construction funds to subsidize major repairs to a school building;

5. Requiring school administrative units to prepare cost comparisons between new construction and the renovation of existing school buildings when applying for the approval of school construction projects; and

6. Other school construction issues that a majority of the study committee agrees to review.

See title page for effective date.

CHAPTER 633

S.P. 499 - L.D. 1358

An Act to Establish Limited Liability Partnerships

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

PART A

Sec. A-1. 31 MRSA §282, sub-§§4-A, 5-A and 7 are enacted to read:

4-A. Foreign limited liability partnership.
"Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction.

5-A. Professional limited liability partnership.
"Professional limited liability partnership" means a registered limited liability partnership that, by virtue of the business conducted by it, would be subject to the Professional Service Corporation Act if that partnership were a corporation.

7. Registered limited liability partnership.
"Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by this Act and registered under the Maine Limited Liability Partnership Act.

Sec. A-2. 31 MRSA §286, first ¶, as amended by PL 1977, c. 322, §2, is further amended to read:

A partnership ~~shall mean~~ means an association of 2 or more persons, including an association of a husband and wife, to carry on as ~~co-owners~~ coowners a business for profit and includes a registered limited liability partnership pursuant to the laws of this State.

Sec. A-3. 31 MRSA §295, as enacted by PL 1973, c. 377, §1, is repealed.

Sec. A-4. 31 MRSA §295-A is enacted to read:

§295-A. Nature of partner's liability

1. Partnership liability. Except as provided in subsection 2, all partners are liable:

A. Jointly and severally for everything chargeable to the partnership under sections 293 and 294; and

B. Jointly for all other debts and obligations of the partnership. Any partner may enter into a separate obligation to perform a partnership contract.

2. Registered limited liability partnership.
Except as provided in subsection 3, a partner in a registered limited liability partnership is not liable directly or indirectly, including by way of indemnification, contribution, assessment or otherwise for debts, obligations and liabilities however chargeable to the partnership or to another partner or partners, whether in tort, contract or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed by another partner, employee, agent or representative of the partnership in the course of the partnership business while the partnership is a registered limited liability partnership.

3. Supervision and control. Notwithstanding subsection 2:

A. A partner in a registered limited liability partnership, other than a professional limited liability partnership, is liable for the partner's own omission, negligence, wrongful act, misconduct or malpractice, or that of any person under the partner's direct supervision and control; and

B. A partner in a professional limited liability partnership is liable as set forth in Title 13, sec-

tion 708-A of the Professional Service Corporation Act.

4. Liability of partner. A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or to enforce the obligations arising out of the acts, omissions, malpractice or misconduct of the type described in subsection 2, unless the partner is personally liable under subsection 3 or section 811.

Sec. A-5. 31 MRSA §298, sub-§1, as enacted by PL 1973, c. 377, §1, is amended to read:

1. Contributions. Each partner ~~shall~~ must be repaid ~~his~~ that partner's contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and, except as provided in section 295-A, subsection 2, each partner must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his that partner's share in the profits.

Sec. A-6. 31 MRSA §314, sub-§§1 and 2, as enacted by PL 1973, c. 377, §1, are amended to read:

1. Knowledge of dissolution. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; ~~or~~

2. Knowledge of death or bankruptcy. The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or

Sec. A-7. 31 MRSA §314, sub-§3 is enacted to read:

3. Partner not liable for the liability. The liability is for a debt, obligation or other liability for which the partner is not liable as provided in section 295-A, subsection 2.

Sec. A-8. 31 MRSA §316, as enacted by PL 1973, c. 377, §1, is amended to read:

§316. Effect of dissolution on partner's existing liability

The dissolution of the partnership does not of itself discharge the existing liability of any partner.

A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between ~~himself~~ that partner, the partnership creditor and the person or partnership continuing the business; and ~~such~~ the agreement may be inferred from the course of dealing between the

creditor having knowledge of the dissolution and the person or partnership continuing the business.

~~Where~~ When a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed ~~shall be~~ are discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of ~~such~~ those obligations.

The individual property of a deceased partner ~~shall be~~ is liable for ~~all~~ those obligations of the partnership incurred while ~~he~~ that person was a partner and for which that partner was liable under section 295-A but subject to the prior payment of ~~his~~ that partner's separate debts.

Sec. A-9. 31 MRSA §320, sub-§1, ¶B, as enacted by PL 1973, c. 377, §1, is amended to read:

B. The contributions of the partners ~~necessary for the payment of all the liabilities~~ specified in subsection ~~2~~ 4.

Sec. A-10. 31 MRSA §320, sub-§4, as enacted by PL 1973, c. 377, §1, is repealed and the following enacted in its place:

4. Contribution of partners. Except as provided in section 295-A, subsection 2:

A. The partners shall contribute, as provided by section 298, subsection 1, the amount necessary to satisfy the liabilities; and

B. If any, but not all, of the partners are insolvent or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities and, in the relative proportions in which the partners share the profits, the additional amount necessary to pay the liabilities.

PART B

Sec. B-1. 31 MRSA c. 15 is enacted to read:

CHAPTER 15

LIMITED LIABILITY PARTNERSHIPS

SUBCHAPTER I

GENERAL PROVISIONS

§801. Short title

This Act is known and may be cited as the "Maine Limited Liability Partnership Act."

§802. Definitions

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

1. Foreign limited liability partnership. "Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction.

2. Registered limited liability partnership. "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the Uniform Partnership Act and registered under this Act.

§803. Registered limited liability partnership name

1. Requirements. The name of a registered limited liability partnership:

A. Must contain the words "Limited Liability Partnership" or the abbreviation "L.L.P.," or the designation "LLP," unless filing a registration of name under section 806. If the words "Limited Liability Partnership" or "Limited Liability Partnership, Chartered" or "Limited Liability Partnership, Professional Association" or "Limited Liability Partnership, P.A.," or any of the designations used in this paragraph without commas, are used, a limited liability partnership may also use the abbreviation "L.L.P." or the designation "LLP" without filing an assumed name under section 805; and

B. May not be the same as or deceptively similar to:

(1) The name of any domestic corporation, limited partnership, limited liability company or registered limited liability partnership organized under the laws of this State or any foreign corporation, foreign limited partnership, foreign limited liability company or foreign limited liability partnership authorized to transact business or to carry on activities in this State;

(2) A name the exclusive right to which is, at the time, reserved under sections 404, 604 and 804; Title 13-A, section 302; and Title 13-B, section 302;

(3) A name that is registered under sections 406, 606 and 806; Title 13-A, section 303; or Title 13-B, section 303;

(4) The assumed name of a corporation, limited partnership, limited liability company or limited liability partnership as provided in sections 405, 605 and 805; Title

13-A, section 307; or Title 13-B, section 308; or

(5) A mark registered under Title 10, chapter 301-A.

2. Exceptions. The name may be the same or deceptively similar:

A. If the registered owner or holder of the name or mark executes and files with the Secretary of State proof of authorization of the use of a deceptively similar name by the limited liability partnership seeking to use the name;

B. If a foreign limited liability partnership seeking to file under the same or deceptively similar name executes and files with the Secretary of State proof that it will not do business in this State under that same or deceptively similar name but instead will do business under an assumed name, as provided in section 805; or

C. If the foreign limited liability partnership was authorized to do business in this State before January 1, 1996 and had the right to use the name as its legal name before that date.

3. Names of limited liability partnerships revoked. Subsection 2, paragraph C does not apply to the name of a partnership whose status as a limited liability partnership has been revoked for at least 3 years.

4. Final determination of availability. The Secretary of State shall make the final determination regarding the availability of a name for filing.

5. Refuse filing. The Secretary of State, in the Secretary of State's discretion, may refuse to file a name that:

A. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial;

B. Inappropriately promotes abusive or unlawful activity; or

C. Falsely suggests an association with public institutions.

§804. Reservation of name

1. Right to reserve a name. The exclusive right to the use of a name may be reserved by:

A. A person intending to organize a registered limited liability partnership under this chapter and to adopt that name;

B. A registered limited liability partnership or a foreign limited liability partnership authorized to

do business in this State and intending to change its name;

C. A foreign limited liability partnership intending to apply for authority to transact business in this State and to adopt that name;

D. A registered limited liability partnership or a foreign limited liability partnership authorized to do business in this State intending to utilize the name as an assumed name; or

E. A person intending to organize a foreign limited liability partnership and intending to have that limited liability partnership apply for authority to transact business in this State and adopt that name.

2. Reservation procedure. The reservation of a name is made by filing with the Secretary of State an application executed by the applicant, specifying the name to be reserved and the name and address of the applicant.

A. If the Secretary of State finds that the name is available for use by a registered limited liability partnership or foreign limited liability partnership, the Secretary of State shall reserve the name for the exclusive use of the applicant for a period of 120 days.

B. Once having reserved a name, the same applicant may reserve the same name for successive 120-day periods.

C. The right to the exclusive use of a reserved name may be transferred to another person by filing with the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee.

D. The reservation of a specified name may be canceled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee.

§805. Assumed name

1. Definition. As used in this section, "assumed name" includes a trade name or a name other than the true name of a limited liability partnership.

2. Right to transact business under assumed name. Upon complying with this section, a registered limited liability partnership or foreign limited liability partnership authorized to do business in this State may transact its business in this State under one or more assumed names.

3. Procedure to use assumed name. Before transacting business in this State under an assumed name, the registered limited liability partnership or foreign limited liability partnership shall execute and deliver for filing a statement setting forth:

A. The name of the limited liability partnership and the address of its registered office;

B. That it intends to transact business under an assumed name;

C. The assumed name that it proposes to use; and

D. Whether the assumed name will be used at fewer than all of the limited liability partnership's places of business in this State, and if so, where it will be used.

A separate statement must be executed and delivered for filing for each assumed name that the limited liability partnership proposes to use.

4. Requirements for name. Each assumed name must comply with the requirements of section 803, subsection 1, except when the true name of the limited liability partnership proposing to use the assumed name is similar.

5. Termination of name. A registered limited liability partnership or foreign limited liability partnership may terminate an assumed name by executing and delivering for filing a statement setting forth:

A. The name of the limited liability partnership and the address of its registered office;

B. That it no longer intends to transact business under the assumed name; and

C. The assumed name that it intends to terminate.

6. Noncompliance; injunction. If a registered limited liability partnership or foreign limited liability partnership uses an assumed name without complying with the requirements of this section, the continued use of the name may be enjoined upon suit by the Attorney General or by a person adversely affected by the use.

7. Deceptively similar names; injunction. Notwithstanding compliance with the requirements of this section, the use of an assumed name may be enjoined upon suit by the Attorney General or by a person adversely affected by that use if the assumed name is deceptively similar to a name in which a person has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law.

For purposes of determining prior rights, the mere filing of a statement pursuant to subsection 3 does not constitute actual use of the assumed name set out in the statement.

§806. Registered name and renewal for foreign limited liability partnership; termination

1. Name registered. A foreign limited liability partnership may register its name under this chapter if the name meets the requirements of section 803, subsection 1.

2. Application. The registration must be made by filing an application for registration setting forth:

A. The name of the limited liability partnership;

B. The state or territory under the laws of which it is organized and the current principal or registered office;

C. The date of its organization;

D. A statement that it is actually engaged in business activities;

E. A brief statement of the activities in which it is engaged; and

F. A certificate of good standing or its equivalent from the proper officer of its jurisdiction of organization. The certificate of good standing must have been made not more than 90 days prior to application for filing.

3. Registration effective. The registration is effective until the close of the calendar year in which the application is filed.

4. Renewal of registration. A foreign limited liability partnership that has registered its name under this section may renew the registration annually by filing an application for renewal. The application must set forth the information required in subsection 2 and may be filed between October 1st and December 31st.

5. Termination of name. A foreign limited liability partnership may terminate a registered name by executing and delivering for filing a statement setting forth:

A. The name of the foreign limited liability partnership and the address of its principal or registered office;

B. The state or territory under the laws of which it is organized;

C. The date of its organization; and

D. The termination of the registered name.

§807. Registered office; registered agent

1. Requirements of registered office and registered agent. Each registered limited liability partnership must have and maintain:

A. A registered office in this State, which may be the same as its place of business; and

B. A registered agent for service of process on a limited liability partnership. The agent may be either:

(1) An individual resident of this State whose business office or residential address is identical to the registered limited liability partnership's registered office; or

(2) A domestic or foreign corporation, whether business or nonprofit, authorized to do business or carry on activities in this State whose registered office also serves as the registered office of the limited liability partnership.

2. Acceptance of designation of agent. Unless the registered agent signed the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a written statement to the Secretary of State accepting the appointment.

3. Change in registered office or registered agent. The registered office or registered agent may be changed by:

A. Filing a certificate of amendment under section 823; or

B. Executing and filing a certificate by the registered agent. The certificate must include:

(1) For the change of address of the registered office of one or more limited liability partnerships for whom the agent is the registered agent to another address in this State:

(a) The names of all limited liability partnerships represented by the agent;

(b) The address at which the registered agent has maintained the registered office for each of those limited liability partnerships; and

(c) The new address of the registered office; or

(2) For a change in the name or identity of a person acting as the registered agent:

(a) The new name or identity of the registered agent;

(b) The name of the registered agent before it was changed;

(c) The names of the limited liability partnerships represented by the agent; and

(d) The address at which the registered agent has maintained the registered office for each of these limited liability partnerships.

Upon filing a certificate under this paragraph, any registered agent shall promptly mail or otherwise deliver a copy of the certificate to a partner of each limited liability partnership affected by the change.

4. Effective date of change or new appointment. The change of address of the registered office or registered agent is effective upon delivery of the certificate to the Secretary of State. The appointment of a new registered agent is effective upon delivery of the certificate to the Secretary of State and upon receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to subsection 2.

5. Resignation of registered agent. A registered agent may resign by filing a certificate with the Secretary of State. The certificate must include:

A. When the registered agent appoints a successor:

(1) A statement of resignation;

(2) The names of the limited liability partnerships;

(3) The name and address of the successor registered agent; and

(4) An attached statement, ratifying and approving the change of registered agent, executed by each affected limited liability partnership and signed by a partner; or

B. When the registered agent does not appoint a successor:

(1) A statement of resignation;

(2) The names of all the limited liability partnerships; and

(3) An attached affidavit stating that on or about the date of the filing of the certificate of resignation, notices were sent by

certified or registered mail to a partner of each registered limited liability partnership from which the registered agent is resigning at the address of the partner, as shown on the most recent annual report of a limited liability partnership.

A resignation takes effect under this subsection upon filing a certificate with the Secretary of State.

6. Secretary of State. The Secretary of State shall furnish to the person submitting the document for filing or to that person's representative, an attested copy of a certificate filed under this section.

7. Resignation of agent; appointment by registered limited liability partnership; service of process. After receipt of the notice of the resignation of its registered agent under subsection 5, a registered limited liability partnership shall file a certificate of amendment designating a new registered agent. Until a registered limited liability partnership duly files a certificate appointing a new registered agent, legal process against that registered limited liability partnership may be served upon the Secretary of State in accordance with section 809.

§808. Revocation of registered limited liability partnership status by Secretary of State

1. Secretary of State's authority to revoke. The Secretary of State shall revoke the status of a partnership as a registered limited liability partnership when:

A. The registered limited liability partnership fails to deliver its annual report for filing within the time specified by this chapter or fails to pay fees or penalties as prescribed by this chapter when they become due and payable;

B. The registered limited liability partnership fails to appoint or name a registered agent in this State;

C. The registered limited liability partnership, after change of its registered office or registered agent, fails to file with the Secretary of State a notification of such a change; or

D. A misrepresentation is made of a material fact in an application, report, affidavit or other document required by this chapter.

2. Procedures. The Secretary of State shall use the procedures set forth in section 859, subsection 1 relative to the revoking of the right of a foreign limited liability partnership to do business in this State for revoking the status of a partnership as a registered limited liability partnership.

3. Reinstatement. A partnership whose status as a registered limited liability partnership has been revoked under this section may have that status reinstated by:

- A. Filing the current annual report;
- B. Filing proper notification of change of registered agent or registered office, or both; or
- C. Correcting a misrepresentation.

All delinquent fees and the penalty as set forth in section 871, subsection 7 or section 874, subsection 1 must be paid.

4. Validity of contracts; right to be sued; right to defend suit. The revocation of the status of a partnership as a registered limited liability partnership under this section does not impair:

- A. The existence of the partnership;
- B. The validity of a contract or act of the registered limited liability partnership;
- C. The right of another party to the contract to maintain an action, suit or proceeding on the contract;
- D. The right of the registered limited liability partnership to defend an action, suit or proceeding in a court of this State; or
- E. The liabilities of the partners with regard to events, acts or omissions occurring before the date of revocation.

§809. Service of process upon registered limited liability partnership

1. Serving process; general provisions. Legal process on a registered limited liability partnership may be served upon:

- A. A partner of the limited liability partnership in this State;
- B. The registered agent of the limited liability partnership; or
- C. A liquidating trustee of the limited liability partnership.

2. Service on Secretary of State. If a registered limited liability partnership fails to appoint or maintain a registered agent in this State or its registered agent can not with reasonable diligence be found at the registered office, the Secretary of State is an agent of that registered limited liability partnership upon whom process, notice or demand may be served. Service on the Secretary of State of the process, notice

or demand must be made as provided by the Maine Rules of Civil Procedure, Rule 4(d)(8), as amended.

3. Other means of service. This section does not limit or impair the right to serve process, notice or demand required or permitted by law to be served upon a registered limited liability partnership in any other manner permitted by law or rule of court.

§810. Service of nonresident partners of registered limited liability partnerships

1. Secretary of State; agent to receive service. Each partner of a registered limited liability partnership who is a nonresident of this State or who becomes a nonresident is deemed to have appointed the Secretary of State as an agent to receive service of process upon that partner in an action or proceeding relating to actions of a registered limited liability partnership that arises while that partner was serving in that capacity.

2. Method of serving process. Service of process upon the Secretary of State must be made in the same manner as provided by the Maine Rules of Civil Procedure, Rule 4(d)(8), as amended, in the case of service upon the Secretary of State as an agent of a foreign limited liability partnership.

A copy of the process must be mailed to the nonresident partner at the business, residence or mailing address of the partner shown on the limited liability partnership's certificate or most recent annual report.

3. Service on nonresident partner. Service under this section also may be made by delivery of a copy of the process to the nonresident partner at the partner's address outside the State. Proof of that delivery must be made by affidavit of the person making delivery and the affidavit must be filed with the clerk of the court in which the action or proceeding is pending.

§811. Nature of professional limited liability partnership business

A limited liability partnership may be registered under this Act for any lawful purpose. A professional limited liability partnership, as defined in section 282, subsection 5-A, is subject to the Professional Service Corporation Act except as follows.

1. Not applicable. Sections 701, 702, 704 to 706 and 713 to 715 do not apply.

2. Application. All references to:

- A. Shareholders are deemed to be references to partners;
- B. Corporations or corporations organized or incorporated under the Professional Service Cor-

poration Act are deemed to be references to professional limited liability partnerships; and

C. Stock are deemed to be references to partnership interests.

3. Revocation. Any provision for the forfeiture of articles of incorporation or dissolution is deemed to provide for revocation of the status of the partnership as a limited liability partnership.

§812. Rules

The Secretary of State may adopt rules consistent with this chapter pertaining to the filing of documents with the Secretary of State. These rules may include, but are not limited to:

1. Forms. Prescribing forms for documents required or permitted to be delivered for filing under this chapter and refusing to file documents not utilizing these prescribed forms;

2. Disapproved filing. Disapproving the filing of a document that is not clearly legible or one that may not be clearly reproducible photographically;

3. Appointed designee. Appointing a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State;

4. Electronic filing; facsimile signatures. Permitting the filing of documents by electronic transmission and permitting facsimile signatures on documents to be filed;

5. Definition of deceptively similar. Setting forth criteria to define the term "deceptively similar";

6. Effective dates of filings. Unless specifically stated in this chapter, setting forth the effective dates of filings required by this chapter; and

7. Annual report filing date. Providing alternative dates for filing annual reports and for determining the dates covered by those reports.

§813. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State to provide an improved filing service.

§814. Access to database

The Secretary of State may provide public access to the database through a dial-in modem, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§815. Publications

1. Fee for publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of those publications.

2. Use of fees. Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

§816. Routine technical rules

Rules adopted pursuant to this chapter, unless expressly designated otherwise, are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

SUBCHAPTER II

REGISTRATION

§821. Registration

A partnership formed under the Uniform Partnership Act may be registered as a registered limited liability partnership by signing and filing a certificate of limited liability partnership with the Secretary of State.

§822. Certificate of limited liability partnership

1. Certificate of limited liability partnership. In order to register a limited liability partnership, a certificate of limited liability partnership must be filed with the Secretary of State. The certificate must set forth:

A. The name of the registered limited liability partnership;

B. The address of the registered office and the name and address of the registered agent for service of process required to be maintained by section 807;

C. The name and the business, residence or mailing address of the contact partner; and

D. Any other matters the partners determine to include in the certificate.

2. Effective date. A partnership becomes a registered limited liability partnership at the time of the filing of the initial certificate of limited liability partnership with the Secretary of State if there has been substantial compliance with the requirements of this section.

§823. Amendment to certificate

1. Certificate of amendment. The certificate of limited liability partnership is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment must set forth:

A. The name of the registered limited liability partnership; and

B. The amendment or amendments to the certificate.

2. Inaccuracies. A partner who becomes aware that a statement in the certificate of limited liability partnership or any certificate filed under this section has become inaccurate in any material respect as a result of subsequent events shall promptly amend the certificate.

3. Amendment required. An amendment to the certificate of limited liability partnership reflecting the event or events must be filed by a partner no later than 90 days after the following event or events occur:

A. A change in the name of the registered limited liability partnership;

B. Except as provided in section 807, subsections 3 and 5, a change in the address of the registered office or a change in the name, identity or address of the registered agent of the registered limited liability partnership;

C. A partner becomes aware that the certificate of limited liability partnership contains a false or an erroneous statement; or

D. A change in the name or the address of the contact partner.

4. Amendment not required. An amendment to the certificate of limited liability partnership is not required as a result of a change in the number of partners of the registered limited liability partnership or in the business in which the registered limited liability partnership engages. To the extent that any partnership is terminated by any such change and a successor partnership comes into existence, that

successor partnership is covered by the prior partnership's certificate of limited liability partnership and succeeds to the status of the prior partnership as a registered limited liability partnership.

5. Right to amend at any time. Except as otherwise provided in the certificate of limited liability partnership, a certificate of limited liability partnership may be amended at any time for any other purpose.

6. Restated certificate of limited liability partnership. A registered limited liability partnership may at any time file a restatement of its certificate of limited liability partnership that integrates into a single document the provisions of its certificate of limited liability partnership giving effect to all amendments previously adopted and, if authorized, further amendments. The restated certificate of limited liability partnership, either in the heading or in an introductory paragraph, must set forth:

A. That it is a restatement;

B. The registered limited liability partnership's present name;

C. If the name has been changed, the name under which it was originally filed; and

D. The date of filing of the initial certificate of limited liability partnership.

The restated certificate of limited liability partnership must be executed and filed in the manner provided for any other amendment to the certificate of limited liability partnership. Upon filing of the restated certificate of limited liability partnership by the Secretary of State, the restatement, including further amendments made as a result of the restatement, constitutes the certificate of the limited liability partnership pursuant to section 822.

§824. Certificate of correction

A partner who becomes aware that any statement in a certificate of limited liability partnership or any certificate filed under this chapter was inaccurate when made shall file a certificate of correction with the Secretary of State. The certificate of correction must specify the inaccuracy or defect to be corrected and set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed, except for those persons who are substantially and adversely affected by the correction. For those persons, the corrected instrument is effective from the filing date.

§825. Certificate of renunciation

1. Renunciation of status. A partnership may renounce its status as a registered limited liability

partnership by filing a certificate of renunciation with the Secretary of State, setting forth:

- A. The name of the registered limited liability partnership;
- B. The date of filing of its certificate of limited liability partnership;
- C. The reason for filing the certificate of renunciation;
- D. The future effective date or time of renunciation, which must be a date or time certain, if it is not to be effective upon the filing of the certificate; and
- E. Any other information the person filing the certificate of renunciation determines necessary.

2. Effect of renunciation. Renunciation of the status of a registered limited liability partnership does not affect the existence of that partnership or the liability of the partners of the partnership with regard to events, acts or omissions occurring before the date of renunciation.

§826. Execution

Each document delivered to the Secretary of State for filing pursuant to this chapter must be executed in the following manner.

1. Signatures. Except as provided in subsection 2, the documents must be signed as follows:

- A. In the case of the initial certificate of limited liability partnership, by one or more partners who are authorized;
- B. In the case of a certificate of amendment, restatement, certificate of correction or any other document filed under this chapter not otherwise provided for, by at least one partner; or
- C. In the case of a certificate of renunciation or other document filed after the dissolution of a registered limited liability partnership:
 - (1) If the partners are winding up the registered limited liability partnership's affairs, then by the contact partner or by a majority in interest of the partners; or
 - (2) If the partners are not winding up the registered limited liability partnership's affairs, then by all liquidating trustees.

2. Signature by agent. Any person may sign any certificate or amendment to a certificate, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amend-

ment to a certificate need not be in writing, sworn to, verified or acknowledged and need not be filed with the Secretary of State, but if in writing, it must be retained by a partner.

3. Oath; unsworn falsification. The execution of a certificate constitutes an oath or affirmation, under the penalties of false swearing under Title 17-A, section 453 that to the best of the signer's knowledge and belief the facts stated in the certificate are true.

§827. Execution or amendment by judicial order

If a person required to execute a certificate under section 826 fails or refuses to do so, then a person who is adversely affected by the failure or refusal may petition the Superior Court to direct the execution of the certificate as follows.

1. Certificate. If the court finds that the certificate should be executed and that the person or persons designated to execute the certificate have failed or refused to do so, the court shall order the Secretary of State to record the appropriate certificate.

2. Venue. Venue for an action under this section lies in the county in this State in which the registered office of the registered limited liability partnership is located or, if there is no registered office in this State, then in Kennebec County Superior Court.

§828. Filing

1. Original filing. An original signed copy of a certificate or other document authorized to be filed under a provision of this chapter must be delivered to the Secretary of State.

A. A person who executes a document as an agent or fiduciary need not exhibit evidence of authority as a prerequisite to filing.

B. Unless the Secretary of State finds that the certificate or other document on its face does not conform to law, upon receipt of all filing fees required by law, the Secretary of State shall attest that the document has been filed with the Secretary of State by endorsing on that document the word "filed" and the day, month and year of the filing and by signing or initialing that endorsement in person or by agent. If the person delivering the document for filing so requests, the endorsement must include the hour and minute of the filing of the document.

C. The endorsement is known as the "filing date" of the document and is conclusive of the date and the time, if included in the endorsement, of filing in the absence of actual fraud.

D. The Secretary of State may use an identifying mark in lieu of signing or initialing.

E. The filing date is the date first received unless otherwise specified by law or rule.

F. The Secretary of State shall file and index the original copy.

2. Attested copy. The Secretary of State shall promptly make a copy of the original certificate or document and attest that copy by marking upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document. The attested copy must be returned to the person submitting the document for filing or to that person's representative.

§829. Materially inaccurate statement

1. Liability. If the certificate of renunciation, certificate of limited liability partnership or certificate of amendment contains a materially inaccurate statement, a person who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

A. A partner who executes the certificate and knew or should have known that the statement was inaccurate in a material respect at the time the certificate was executed; and

B. A partner who thereafter knows that an arrangement or other fact described in the certificate is inaccurate in any material respect or has changed, making the statement inaccurate in any material respect, if that partner had sufficient time to amend or cancel the certificate or to file a petition for the amendment or cancellation before the statement was reasonably relied upon.

2. Exception. Notwithstanding subsection 1, a partner does not have liability for failing to cause the amendment or renunciation of a certificate to be filed or failing to file a petition for amendment or renunciation pursuant to subsection 1 if the certificate of amendment, certificate of renunciation or petition is filed within 90 days of the date that partner knew or should have known the certificate was inaccurate in any material respect.

§830. Notice

The fact that a certificate of limited liability partnership is on file with the Secretary of State constitutes notice of facts set forth in the certificate that are required by section 822, subsection 1 and by section 823, subsection 6.

SUBCHAPTER III

FOREIGN LIMITED LIABILITY PARTNERSHIPS

§851. Laws governing foreign limited liability partnerships

1. Laws governing. Unless otherwise provided by the Constitution of Maine:

A. The laws of the state or country under which a foreign limited liability partnership is organized govern its organization and internal affairs and the liability of its partners, provided that each partner, employee or agent of a foreign limited liability partnership who performs professional services in this State on behalf of such a foreign limited liability partnership is personally and fully liable for any omission, negligence, wrongful act, misconduct or malpractice by that person or any person under that person's direct supervision and control arising out of those professional services performed in this State; and

B. A foreign limited liability partnership may not be denied the authority to do business by reason of a difference between the laws referred to in this subsection and the laws of this State.

2. Type of business. A foreign limited liability partnership may transact any business in this State that may be transacted by a registered limited liability partnership.

§852. Authority to do business required; application

Before doing business in this State, a foreign limited liability partnership must obtain authority to do business from the Secretary of State.

1. Definitions. As used in this subchapter, "doing business," "the doing of business" or "business done in this State" by a foreign limited liability partnership means the course or practice of carrying on any business activities in this State. For purposes of this subsection, a foreign limited liability partnership is not considered to be transacting business in this State solely for carrying on one or more of the following activities:

A. Maintaining or defending any action or administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes;

B. Holding meetings of its partners or carrying on other activities concerning its internal affairs;

C. Maintaining bank accounts, share accounts in savings and loan associations, custodial or agency arrangements with a bank or trust company or stock or bond brokerage accounts;

D. Maintaining offices or agencies for the transfer, exchange and registration of its interests or appointing and maintaining trustees or depositors with relation to its interests;

E. Effecting sales through independent contractors;

F. Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, when the orders require acceptance outside this State before becoming binding contracts and when the contracts do not involve any local performance other than delivery and installation;

G. Making loans or creating or acquiring evidence of debt, mortgages or liens on real or personal property or recording the debts, mortgages or liens;

H. Securing or collecting debts or enforcing any rights in property securing those debts;

I. Effecting transactions in interstate or foreign commerce;

J. Owning or controlling a subsidiary corporation incorporated in or transacting business within this State;

K. Owning or controlling a general or limited partnership or a limited liability company organized or transacting business within this State;

L. Conducting an isolated transaction not in the course of a number of repeated similar transactions;

M. Serving as trustee, executor, administrator or guardian or in like fiduciary capacity as permitted by the laws of this State; or

N. Being a partner in a registered limited partnership or a domestic general partnership or a member in a domestic limited liability company.

This subsection is not intended to exclude other activities that do not constitute transacting business in this State.

2. Execution. The foreign limited liability partnership shall submit to the Secretary of State an application for authority to do business, executed by a person with authority to do so under the laws of the state or other jurisdiction of its formation on a form prescribed by or furnished by the Secretary of State.

3. Contents of the application. The application must include:

A. The name of the foreign limited liability partnership and, if different, the name under which

that partnership proposes to apply for authority to do business in this State;

B. The state or country where organized, the date of its organization and a statement that, as of the date of filing, the foreign limited liability partnership validly exists as a limited liability partnership under the laws of the jurisdiction of its organization;

C. The nature of the business or purposes to be conducted or promoted in this State;

D. The address of the registered office and the name and address of the registered agent for service of process, which are required to be maintained under section 854, subsection 2;

E. A statement that the Secretary of State is appointed the agent of the foreign limited liability partnership for service of process;

F. The name and business, residence or mailing address of the contact partner;

G. The date on which the foreign limited liability partnership first did, or intends to do, business in this State;

H. A certificate of good standing or its equivalent from the proper officer of its jurisdiction of organization. For the purpose of this paragraph, a copy of the foreign limited liability partnership's registration certified or stamped by the Secretary of State or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of good standing or its equivalent must have been made not more than 90 days prior to the delivery of the application for filing; and

I. The address of the registered or principal office of the limited liability partnership in the jurisdiction of its organization.

§853. Evidence of authority to do business

If the Secretary of State finds that an application for the authority to do business conforms to the requirements of this chapter and all requisite fees have been paid, the Secretary of State shall:

1. Attest application. Attest that the application has been filed by:

A. Endorsing upon the original application the word "filed" and the day, month and year of the filing. The person delivering the application for filing may have the endorsement include the hour and minute of the filing of the application. This endorsement is conclusive of the date and

time, if included in the endorsement, and of its filing in the absence of actual fraud; and

B. Signing, initialing or placing an identifying mark on the endorsement in paragraph A in person or by agent;

2. File the application. File and index the endorsed application; and

3. Copy to limited liability partnership. Furnish to the person submitting the document for filing, or that person's representative, an attested copy of the application.

§854. Name; registered office; registered agent

1. Name. A foreign limited liability partnership may apply to the Secretary of State to do business in this State under a name that conforms with the requirements of section 803, subsection 1. The name need not be the same as the name under which it is authorized to do business in the jurisdiction of its organization.

2. Registered office and registered agent. Each foreign limited liability partnership must have and maintain in this State:

A. A registered office, which may or may not be a place of its business in this State; and

B. A registered agent for service of process on the limited liability partnership. The agent may be either:

(1) An individual resident of this State whose business office or residential address is identical with the limited liability partnership's registered office; or

(2) A domestic or foreign corporation, whether business or nonprofit, authorized to do business or carry on activities in this State whose registered office must also serve as the registered office of the limited liability partnership.

3. Change in registered office or registered agent. The registered office and registered agent may be changed by:

A. Filing a certificate of amendment under section 855; or

B. Executing and filing a certificate by the registered agent. The certificate must include:

(1) For the change of address of the registered office of the limited liability partnerships for which the agent is the registered agent to another address in this State;

(a) A list of the names of all limited liability partnerships represented by that registered agent;

(b) The address at which the registered agent has maintained the registered office for each of the limited liability partnerships; and

(c) The new address to which the registered office will be changed; or

(2) For a change in the name of a person acting as the registered agent:

(a) The new name of the registered agent;

(b) The name of the registered agent before it was changed;

(c) A list of the names of all limited liability partnerships represented by the agent; and

(d) The address at which the registered agent has maintained the registered office for each of the limited liability partnerships.

Any registered agent filing a certificate under this paragraph upon filing shall promptly mail or otherwise deliver a copy of the certificate to a partner of each limited liability partnership affected by the change.

4. Resignation of registered agent. A registered agent may resign by filing a certificate with the Secretary of State. The certificate must include:

A. When the registered agent appoints a successor:

(1) A statement of resignation;

(2) A list of the names of all the limited liability partnerships represented by the agent for which the agent is resigning as agent;

(3) The name and address of the successor registered agent; and

(4) An attached statement executed by each affected limited liability partnership signed by a partner ratifying and approving the change of registered agent; or

B. When the registered agent does not appoint a successor:

(1) A statement of resignation;

(2) A list of the names of all limited liability partnerships represented by the agent for which the agent is resigning as agent; and

(3) An attached affidavit stating that on or about the date of the filing of the certificate of resignation, notices that the registered agent is resigning as registered agent were sent by certified or registered mail to the registered or principal office of each foreign limited liability partnership in the jurisdiction of its organization as filed with the Secretary of State.

The resignation takes effect under this paragraph upon filing with the Secretary of State.

5. Secretary of State. The Secretary of State shall furnish to the person submitting the document for filing, or that person's representative, an attested copy of a certificate filed under this section.

6. Resignation of agent; appointment by foreign limited liability partnership; service of process. After receipt of the notice of the resignation of its registered agent under subsection 3, paragraph B, the foreign limited liability partnership shall file a certificate of amendment designating a new registered agent. If the foreign limited liability partnership fails to appoint a new registered agent within 30 days after the filing of the certificate of resignation, the authority of that foreign limited liability partnership to carry on business in this State is canceled and the foreign limited liability partnership may not carry on business in this State.

§855. Amendments to application

If any statement in the application for authority to do business of a foreign limited liability partnership requires change as a result of subsequent events, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner amending the statement.

§856. Certificate of correction

If a statement in the application for authority to do business of a foreign limited liability partnership was materially inaccurate when made, the foreign limited liability partnership shall promptly file with the Secretary of State a certificate executed by a partner correcting the statement. The certificate of correction must specify the inaccuracy or defect to be corrected and must set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed except that for persons who are substantially and adversely affected by the correction, the corrected instrument is effective from the filing date.

§857. Cancellation of authority to do business

A foreign limited liability partnership may cancel its authority to do business by filing with the Secretary of State a certificate of cancellation. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited liability partnership with respect to causes of action arising out of the doing of business in this State.

§858. Doing business without authority; treatment as general partnership

A foreign limited liability partnership doing business in this State must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State during any period in which it lacked authority to do business in this State as a foreign limited liability partnership.

§859. Doing business without authority; revocation by Secretary of State

1. Revocation by Secretary of State. The Secretary of State may revoke the status of a foreign partnership as a limited liability partnership with respect to doing business in the State in accordance with this subsection.

A. Notwithstanding Title 4, chapter 25 and Title 5, chapter 375, the status of a foreign partnership as a limited liability partnership with respect to doing business in this State may be revoked by the Secretary of State as provided in paragraphs C and D when:

(1) The foreign limited liability partnership fails to deliver its annual report for filing within the time specified by this chapter or fails to pay any fees or penalties as prescribed by this chapter when they become due and payable;

(2) The foreign limited liability partnership fails to appoint and maintain a registered agent in this State as required by section 807;

(3) The foreign limited liability partnership fails, after change of its registered office or registered agent, to file with the Secretary of State a statement of the change required by section 807;

(4) The foreign limited liability partnership fails to file with the Secretary of State an amended application for authority required by section 855; or

(5) A misrepresentation of a material fact is made in any application, report, affidavit or other document required by this chapter.

B. A foreign partnership's status as a limited liability partnership in this State may be revoked only after:

(1) The Secretary of State has mailed to the foreign limited liability partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State a 30-day notice of pending revocation of its status as a foreign limited liability partnership in this State. The notice must specify the default; and

(2) The foreign limited liability partnership has not, prior to revocation, removed the ground of default specified in the notice.

C. After the expiration of the 30-day notice period, if a foreign limited liability partnership has not corrected the specified default or convinced the Secretary of State, by affidavit or otherwise, that there was no misrepresentation relative to paragraph A, subparagraph (5), the Secretary of State shall issue and file a certificate revoking the status of the partnership as a foreign limited liability partnership in this State and mail copies of the certificate of revocation to the foreign limited liability partnership's last registered office in this State and to its last registered or principal office in its jurisdiction of organization as filed with the Secretary of State.

D. The foreign limited liability partnership may appeal the action of the Secretary of State in revoking its status to the Superior Court in Kennebec County. The appeal is governed by the Maine Rules of Civil Procedure, Rule 80B, as amended.

E. The status of the partnership as a foreign limited liability partnership in this State ceases as of the date of filing the certificate of revocation unless stayed by the court.

F. A foreign partnership that has its status as a limited liability partnership in this State revoked may be requalified by applying under this subchapter.

§860. Execution of documents; liability for false statements

1. Signature. Documents must be signed by a partner except as otherwise provided.

2. False swearing; false statements. Section 826, subsection 3 governing false swearing and section 829 on liability for false statements apply to foreign limited liability partnerships as if the application for authority to do business were the certificate of limited liability partnership of a registered limited liability partnership.

§861. Service of process on foreign limited liability partnerships authorized to do business in State

1. Partner. Process may be served on a partner who is present or found in this State.

2. Registered agent. Process may be served on the registered agent of the foreign limited liability partnership.

3. Service on Secretary of State. If a foreign limited liability partnership authorized to do business in this State fails to appoint or maintain a registered agent in this State, if any such registered agent can not with reasonable diligence be found at the registered office or if the authority of a foreign limited liability partnership is revoked, the Secretary of State is an agent of that foreign limited liability partnership upon whom any such process, notice or demand may be served. Service on the Secretary of State of any such process, notice or demand must be made as provided in section 863.

4. Other means of service. Nothing in this section limits or affects the right to serve process, notice or demand that is required or permitted by law to be served upon a foreign limited liability partnership in any other manner permitted by law or rule of court.

§862. Service of process on foreign limited liability partnership not authorized to do business in State

1. Service on Secretary of State. Every foreign limited liability partnership that does business in this State without having been authorized to do business in this State submits itself to the jurisdiction of the courts of this State and designates the Secretary of State as its agent upon whom process, notice or demand upon it may be served in any action or proceeding arising out of or in connection with the doing of business in this State.

2. Method of serving process. In addition to other methods of service that may be authorized by law or by rule, service of process may be made as provided in section 863.

§863. Service of process on Secretary of State for foreign limited liability partnership

When process, notice or demand is to be served on the Secretary of State as the agent of a foreign limited liability partnership pursuant to a provision of this chapter:

1. Delivery to Secretary of State. The process, notice or demand must be served by delivering it to the Secretary of State or to a person designated by the Secretary of State to receive that service;

2. Copy; foreign limited liability partnership. The party serving the process shall promptly send a duplicate copy of the process, notice or demand via registered or certified mail, return receipt requested, marked "deliver to addressee only," to the foreign limited liability partnership at:

A. Its last registered office in this State on file in the office of the Secretary of State, if any; and

B. Its last registered or principal office in the jurisdiction of its organization on file in the office of the Secretary of State, if any, or, if no such office has been listed in the office of the Secretary of State, at the last address of the foreign limited liability partnership known to the person serving the process; and

3. Proof of service. Proof of service must be by return of service on the Secretary of State and by an affidavit of the person serving the process or that person's attorney setting forth compliance with subsection 2. The affidavit must be appended by the return receipt signed by the foreign limited liability partnership or other official proof of delivery or, if acceptance was refused or the addressee was not found at the address given, the original envelope bearing the notation of the postal authorities showing the reason for nondelivery. Service is complete when there has been compliance with subsections 1 and 2.

SUBCHAPTER IV**MISCELLANEOUS****§871. Fees; penalties**

A document filed under this chapter is not effective until the applicable fee required in this section is paid. The following fees or penalties must be paid to the Secretary of State:

1. Reservation. For filing an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to section 804, a fee of \$20 for each limited liability partnership affected;

2. Assumed name. For filing an application for an assumed name under section 805, a fee of \$105;

3. Termination of assumed name. For filing a termination of an assumed name under section 805, subsection 5, a fee of \$20;

4. Registered name. For filing an application for a registered name of a foreign limited liability partnership under section 806, a fee of \$20 per month for the number of months or fraction of a month remaining in the calendar year when first filing. For filing an application to renew the registration of a registered name, the fee is \$155;

5. Termination of registered name. For filing a termination of registered name under section 806, subsection 5, a fee of \$20;

6. Change of registered agent or registered office for registered limited liability partnerships. For filing a certificate by a registered agent under section 807 or a certificate of amendment under section 823 changing the registered agent or address of the registered office or containing the resignation of the registered agent, a fee of \$20;

7. Penalty. Except as provided in section 875, as a penalty prior to being reinstated as a registered limited liability partnership under section 808, a fee of \$100;

8. Certificate of limited liability partnership, amendment or renunciation. For filing a certificate of limited liability partnership under section 822, a certificate of amendment under section 823, except as provided in subsection 6, or a certificate of renunciation under section 825, a fee of \$250;

9. Certificate of correction. For filing a certificate of correction under section 824, a fee of \$20;

10. Foreign limited liability partnerships. For filing an application for authority to do business as a foreign limited liability partnership under section 852, a certificate of amendment under section 855, except as provided in subsection 12, or a certificate of cancellation under section 857, a fee of \$250. For filing a certificate of amendment under section 855 to change the address of the registered or principal office in the jurisdiction of its organization, the fee is \$30;

11. Certificate of correction for foreign limited liability partnerships. For filing a certificate of correction under section 856, a fee of \$30;

12. Change of registered agent or registered office for foreign limited liability partnerships. For filing a certificate by a registered agent under section 854 or a certificate of amendment under section 855

changing the registered agent or address of the registered office or containing the resignation of the registered agent, a fee of \$30;

13. Photocopies. For all photocopies, whether certified or not, a fee of \$2 per page. The Secretary of State may issue photocopies of instruments on file, as well as other copies;

14. Certified copies. For providing certified copies of any paper on file as provided for by this chapter, a fee of \$5 for each copy certified, in addition to any fee due under subsection 13;

15. Issuing certificate. For issuing a short form certificate of change of name, a fee of \$25. For issuing a short form certificate of limited liability partnership condition, the fee is \$25. For issuing a long form certificate of limited liability partnership condition listing amendments, the fee is \$35. For issuing a certificate of diligent search, the fee is \$45. For issuing a specially worded certificate, the fee is \$45;

16. Preclearance of document. For preclearance of a document for filing, a fee of \$100;

17. All other filings. For receiving and filing of a certificate, affidavit, agreement or any other paper provided for by this chapter for which a fee is not specifically prescribed, a fee of \$20;

18. Annual report. For filing of an annual report under section 874, a fee of \$60;

19. Information request. For written response to a request for information on file, a fee of \$5; and

20. Service of process on Secretary of State as agent. For accepting service of process under section 809, 810, 861 or 862, a fee of \$20.

All fees collected as provided by this chapter must be remitted to the Treasurer of State for the use of the State with the exception of those fees established by rule and collected for expedited service. Fees for expedited service are deposited into a fund for use by the Secretary of State in providing an improved filing service.

§872. Duty of Secretary of State

The duty of the Secretary of State to file documents under this chapter is ministerial. The filing or refusal to file a document does not:

1. Validity of documents. Affect the validity or invalidity of the document in whole or in part;

2. Correctness of information. Relate to the correctness or incorrectness of information contained in the document; or

3. Presumption of validity or correctness.

Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect.

§873. Annual report of registered and foreign limited liability partnerships

1. Annual report. Each registered limited liability partnership and each foreign limited liability partnership authorized to do business in this State shall file, within the time prescribed by this chapter, an annual report setting forth:

A. The name of the limited liability partnership;

B. The name of its registered agent and the address of its registered office in this State, including the street or rural route number, town or city and state, and, in the case of a foreign limited liability partnership, the address of its registered or principal office in its jurisdiction of organization;

C. A brief statement of the character of the business in which the limited liability partnership is actually engaged in this State, if any; and

D. The name and business or residence address of each partner, including the street or rural route number, town or city and state.

2. Reporting period. The Secretary of State shall specify by rule the period of time to which the annual report applies as provided in subsection 3. The information contained in the annual report must be current as of the date the report is signed.

3. Execution, delivery and penalties. This subsection governs execution, delivery and penalties.

A. The annual report must be executed and signed by a partner or any other duly authorized individual.

B. Subject to rules adopted under section 812, the report must be delivered to the Secretary of State or a designee for filing. The annual report may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of an annual report as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid is considered a compliance with this requirement.

C. One copy of the report, together with the filing fee required by this chapter, must be delivered for filing to the Secretary of State, who shall file the report if the Secretary of State finds that it conforms to the requirements of this chapter. If the Secretary of State finds that it does not conform, the Secretary of State shall promptly mail or otherwise return the report to the limited liability partnership for any necessary correction.

D. The penalties prescribed by this chapter for failure to file the report within the time provided in this section do not apply if the report is corrected to conform to the requirements of this chapter and returned to the Secretary of State within 30 days from the date on which the report was mailed or otherwise returned to the limited liability partnership by the Secretary of State.

§874. Failure to file annual report; incorrect report; penalties

1. Failure to file annual report; revocation of status. A limited liability partnership required to deliver an annual report for filing, as provided by section 873, 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, provided that the report is received by the Secretary of State prior to revocation of its status as a limited liability 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 the status of that partnership as a foreign limited liability partnership or a registered limited liability partnership. The Secretary of State shall use the procedures set forth in section 859, subsection 1 relative to revoking the status of a partnership as a foreign limited liability partnership for revoking the status of a partnership as a registered limited liability partnership. A foreign limited liability partnership whose limited liability partnership status has been revoked under this subsection that wishes to do business again as a limited liability partnership in this State must follow the procedures set forth in section 808, subsection 3 relative to reinstatement of registered limited liability partnerships. A partnership whose status as a registered limited liability partnership has been revoked under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the reinstatement fee of \$125 for each year the limited liability 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.

2. Nonconformity. If the Secretary of State finds that an annual report delivered for filing does not

conform with the requirements of section 873, the report must be returned for correction.

3. Revocation. During any period in which a partnership's status as a limited liability partnership has been revoked, it must be treated as a general partnership without that limited liability partnership status.

4. Time limit specified. If the annual report of a limited liability partnership is not delivered for filing within the time specified in section 873, the limited liability partnership is excused from the liability provided in this section and from any other penalty for failure to file timely the report if it establishes to the satisfaction of the Secretary of State that failure to file was the result of excusable neglect and it furnishes the Secretary of State with a copy of the report within 30 days after learning that the Secretary of State failed to receive the original report.

5. Inadvertent errors. The status of a partnership as a limited liability partnership and the liability of a partner of that limited liability partnership is not adversely affected if the name or address of a partner listed in an annual report is erroneously stated or omitted, as long as that annual report was filed in good faith.

§875. Effective date

This Act takes effect September 1, 1996. All partnerships that register as registered limited liability partnerships on or after that date and all foreign limited liability partnerships that apply for authority to transact business within this State on or after that date are governed by this Act.

§876. Application to existing foreign limited liability partnerships; definition

All foreign limited liability partnerships qualified as foreign corporations or limited partnerships or limited liability companies before September 1, 1996 are governed by this Act on and after September 1, 1996. By December 1, 1996 a partner of each foreign limited liability partnership shall file with the Secretary of State an application for authority to do business in this State under this Act and shall cancel the partnership's authority to do business in this State under chapter 11, chapter 13 or Title 13-A. If the foreign limited liability partnership fails to file the new application for authority to do business in this State by December 1, 1996, it must be treated as a general partnership without the status of a limited liability partnership with respect to any business conducted in this State between December 1, 1996 and the date on which it files that application.

PART C

Sec. C-1. 10 MRSA §1521, sub-§2-C is enacted to read:

2-C. Limited liability partnership name. "Limited liability partnership name" includes a limited liability partnership name, reserved name, assumed name or registered name as those terms are used in Title 31, sections 803 to 806.

Sec. C-2. 10 MRSA §1522, sub-§1, ¶G, as repealed and replaced by PL 1995, c. 462, Pt. A, §24, is amended to read:

G. Consists of or comprises a corporate, limited liability company, limited liability partnership or limited partnership name, unless the corporation, limited liability company, limited liability partnership 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, limited liability partnership or limited partnership name by the applicant seeking to use the mark;

Sec. C-3. 10 MRSA §1525, sub-§2, as amended by PL 1993, c. 718, Pt. B, §3, is further amended to read:

2. Corporate, limited liability company or partnership name. Any holder of a certificate of registration issued pursuant to section 1523 may grant to any domestic or foreign corporation, limited liability company, limited liability partnership or limited partnership authorized to do business in this State the exclusive right to the use of a name similar to the mark shown on the certificate.

Sec. C-4. 13-A MRSA §301, sub-§1, ¶D, as amended by PL 1993, c. 718, Pt. B, §4, is further amended to read:

D. May not be the same as, or deceptively similar to, the name of any domestic limited partnership existing under the laws of this State or any foreign limited partnership authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in Title 31, section 404, or the name of a limited partnership that has in effect a registration of its limited partnership name as provided in Title 31, section 406, or the assumed name of a limited partnership as provided for in Title 31, section 405, unless:

(1) The limited partnership executes and files with the Secretary of State, as provided in Title 31, section 403, proof of authorization of the use of a similar name

by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State, as provided in sections 104 and 106 of this Act, proof of a resolution of its board of directors that it will not do business under that similar or identical name, but instead will do business under an assumed name, as provided for in section 307; ~~and~~

Sec. C-5. 13-A MRSA §301, sub-§1, ¶E, as enacted by PL 1993, c. 718, Pt. B, §5, is amended to read:

E. May not be the same as, or deceptively similar to, the name of a domestic limited liability company existing under the laws of this State or a foreign limited liability company authorized to transact business in this State or a name the exclusive right to which is at the time reserved in the manner provided in Title 31, section 604 or the name of a limited liability company that has in effect a registration of its limited liability company name as provided in Title 31, section 606 or the assumed name of a limited liability company as provided in Title 31, section 605, unless:

(1) The limited liability company executes and files with the Secretary of State as provided in Title 31, section 603 proof of authorization of the use of a similar name by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State as provided in sections 104 and 106 proof of a resolution of its board of directors that the foreign corporation will not do business under that similar or identical name but will do business under an assumed name as provided in section 307; and

Sec. C-6. 13-A MRSA §301, sub-§1, ¶F is enacted to read:

F. May not be the same as, or deceptively similar to, the name of a registered limited liability partnership existing under the laws of this State or a foreign limited liability partnership authorized to transact business in this State or a name the exclusive right to which is at the time reserved in the manner provided in Title 31, section 804 or the name of a limited liability partnership that has in effect a registration of its limited liability partnership name as provided in

Title 31, section 806 or the assumed name of a limited liability partnership as provided in Title 31, section 805, unless:

(1) The limited liability partnership executes and files with the Secretary of State as provided in Title 31, section 803 proof of authorization of the use of a similar name by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State as provided in sections 104 and 106 proof of a resolution of its board of directors that the foreign corporation will not do business under that similar or identical name but will do business under an assumed name as provided in section 307.

Sec. C-7. 13-B MRSA §301, sub-§1, ¶E, as amended by PL 1993, c. 718, Pt. B, §7, is further amended to read:

E. May not be the same as, or deceptively similar to, the name of any domestic limited partnership existing under the laws of this State or any foreign limited partnership authorized to transact business in this State, or a name the exclusive right to which is, at the time, reserved in the manner provided in Title 31, section 404, or the name of a limited partnership that has in effect a registration of its limited partnership name as provided in Title 31, section 406, or the assumed name of a limited partnership as provided for in Title 31, section 405, unless:

(1) The limited partnership executes and files with the Secretary of State, as provided in Title 31, section 403, proof of authorization of the use of a similar name by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State, as provided in sections 104 and 106, proof of a resolution of its board of directors that it will not carry on activities under that similar or identical name, but instead will carry on activities under an assumed name, as provided for in section 308; ~~and~~

Sec. C-8. 13-B MRSA §301, sub-§1, ¶F, as enacted by PL 1993, c. 718, Pt. B, §8, is amended to read:

F. May not be the same as, or deceptively similar to, the name of any domestic limited

liability company existing under the laws of this State or any foreign limited liability company authorized to transact business in this State or a name the exclusive right to which is at the time reserved in the manner provided in Title 31, section 604 or the name of a limited liability company that has in effect a registration of its limited liability company name as provided in Title 31, section 606 or the assumed name of a limited liability company as provided in Title 31, section 605, unless:

(1) The limited liability company executes and files with the Secretary of State as provided in Title 31, section 603 proof of authorization of the use of a similar name by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State as provided in sections 104 and 106 proof of a resolution of its board of directors that the foreign corporation will not carry on activities under that similar or identical name but will carry on activities under an assumed name as provided in section 308; ~~and~~

Sec. C-9. 13-B MRSA §301, sub-§1, ¶G is enacted to read:

G. May not be the same as, or deceptively similar to, the name of any registered limited liability partnership existing under the laws of this State or any foreign limited liability partnership authorized to transact business in this State or a name the exclusive right to which is at the time reserved in the manner provided in Title 31, section 804 or the name of a limited liability partnership that has in effect a registration of its limited liability partnership name as provided in Title 31, section 806 or the assumed name of a limited liability partnership as provided in Title 31, section 805, unless:

(1) The limited liability partnership executes and files with the Secretary of State as provided in Title 31, section 803 proof of authorization of the use of a similar name by the corporation seeking to use the similar name; or

(2) A foreign corporation seeking to file under a similar or identical name executes and files with the Secretary of State as provided in sections 104 and 106 proof of a resolution of its board of directors that the foreign corporation will not carry on activities under that similar or identical name but

will carry on activities under an assumed name as provided in section 308.

Sec. C-10. 31 MRSA §6, as amended by PL 1995, c. 458, §11, 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, may adopt a name for such business that contains the words "corporation," "incorporated" or "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 and a limited liability partnership may use the term "limited liability partnership" as part of its name.

Sec. C-11. 31 MRSA §403, sub-§1, ¶A, as amended by PL 1995, c. 458, §12, is repealed and the following enacted in its place:

A. Must contain the words "Limited Partnership," or the abbreviation "L.P.," or the designation "LP," unless filing a registration of name under section 406. If the words "Limited Partnership" are used, a limited partnership may also use the abbreviation "L.P." or the designation "LP" without filing an assumed name under section 405;

Sec. C-12. 31 MRSA §403, sub-§1, ¶C, as amended by PL 1993, c. 718, Pt. B, §9, is further amended to read:

C. May not be the same as, or deceptively similar to:

(1) The name of any domestic corporation or limited partnership or limited liability company or registered limited liability partnership organized under the laws of this State or any foreign corporation or foreign limited partnership or foreign limited liability company or foreign limited liability partnership authorized to transact business or to carry on activities in this State;

(2) A name the exclusive right to which is, at the time, reserved under section 404 ~~or~~ 604 or 804; Title 13-A, section 302; or Title 13-B, section 302;

(3) A name that is registered under section 406 ~~or~~ 606 or 806; Title 13-A, section 303; or Title 13-B, section 303;

(4) The assumed name of a corporation or limited partnership or limited liability company or registered limited liability partnership as provided in section 405 ~~or~~ 605 or

805; Title 13-A, section 307; or Title 13-B, section 308; or

(5) A mark registered under Title 10, chapter 301-A.

Sec. C-13. 31 MRSA §422-A, as enacted by PL 1993, c. 316, §54, is amended to read:

§422-A. Certificate of correction

A general partner who becomes aware that any statement in a certificate of limited partnership, or any certificate filed under this ~~section~~ chapter, was inaccurate when made shall file a certificate of correction with the Secretary of State. The certificate of correction must specify the inaccuracy or defect to be corrected and set forth that portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the corrected instrument is effective from the filing date.

Sec. C-14. 31 MRSA §603, sub-§1, ¶A, as amended by PL 1995, c. 458, §19, is repealed and the following enacted in its place:

A. Must contain the words "Limited Liability Company," or the abbreviation "L.L.C.," or the designation "LLC," unless filing a registration of name under section 606. If the words "Limited Liability Company" or "Limited Liability Company, Chartered" or "Limited Liability Company, Professional Association" or "Limited Liability Company, P.A." or any of the designations used in the paragraph without commas are used, a limited liability company may also use the abbreviation "L.L.C." or the designation "LLC" without filing an assumed name under section 605;

Sec. C-15. 31 MRSA §603, sub-§1, ¶B, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

B. May not be the same as or deceptively similar to:

(1) The name of any domestic corporation, limited partnership, registered limited liability partnership or limited liability company organized under the laws of this State or any foreign corporation, foreign limited partnership, foreign limited liability partnership or foreign limited liability company authorized to transact business or to carry on activities in this State;

(2) A name the exclusive right to which is, at the time, reserved under sections 404 ~~and~~, 604 ~~and~~ 804; Title 13-A, section 302; and Title 13-B, section 302;

(3) A name that is registered under section 606; Title 13-A, section 303; Title 13-B, section 303; or Title 31, section 406 ~~or~~ 806;

(4) The assumed name of a corporation, limited partnership, ~~limited liability partnership~~ or limited liability company as provided in section 605; Title 13-A, section 307; Title 13-B, section 308; or Title 31, section 405 ~~or~~ 805; or

(5) A mark registered under Title 10, chapter 301-A.

Sec. C-16. 31 MRSA §611, as enacted by PL 1993, c. 718, Pt. A, §1, is repealed and the following enacted in its place:

§611. Nature of business

A limited liability company may be organized under this chapter for any lawful purpose. If the purpose for which a limited liability company is organized or its form makes it subject to a special provision of law, the limited liability company shall also comply with that provision. This section is specifically intended to permit the formation of a professional limited liability company by a person or persons who may form a professional corporation under the Professional Service Corporation Act. The provisions of that Act are incorporated in this chapter by reference, except as follows.

1. Not applicable. Sections 701, 702, 704 to 706 and 713 to 715 do not apply.

2. Application. All references to:

A. Shareholders are deemed to be references to members;

B. Corporations, or corporations organized or incorporated under the Professional Service Corporation Act, are deemed to be references to professional limited liability companies;

C. Stock are deemed to be references to membership interests; and

D. Officers are deemed to be references to managers.

Sec. C-17. 31 MRSA §624, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

§624. Certificate of correction

A manager or, if there is no manager, a member who becomes aware that any statement in articles of organization, or a any certificate filed under this ~~section~~ chapter, was inaccurate when made, shall file a certificate of correction with the Secretary of State. The certificate of correction must specify the inaccuracy or defect to be corrected and must set forth the portion of the instrument in corrected form. The corrected instrument is effective as of the date the original instrument was filed, except for those persons who are substantially and adversely affected by the correction. For those persons, the corrected instrument is effective from the filing date.

Sec. C-18. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Bureau of Administrative Services
and Corporations**

All Other	\$7,500
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Provides additional funds for printing costs associated with the administration of limited liability partnerships and one-time software design costs to update the departmental data base.

See title page for effective date.

CHAPTER 634

S.P. 207 - L.D. 550

**An Act to Clarify the Sales Tax Law
Applicable to Packaging**

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

Sec. 1. 36 MRSA §1760, sub-§12-A, as enacted by PL 1989, c. 871, §11, is amended to read:

12-A. Packaging materials. Sales of containers, boxes, crates, bags, cores, twines, tapes, bindings, wrappings, labels and other packing, packaging and shipping materials to ~~persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service~~

~~of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property;~~

A. Persons engaged in the business of packing, packaging, shipping and transporting tangible personal property; or

B. Persons for use in packing, packaging or shipping tangible personal property sold by them or on which they have performed the service of cleaning, pressing, dyeing, washing, repairing or reconditioning in their regular course of business that are transferred to the possession of the purchaser of that tangible personal property;

Sec. 2. Effective date. This Act takes effect August 1, 1996.

Effective August 1, 1996.

CHAPTER 635

H.P. 1038 - L.D. 1457

An Act to Discourage the Spread of "Crack" Cocaine

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

Sec. 1. 17-A MRSA §1102, sub-§1, ¶F, as repealed and replaced by PL 1989, c. 334, §1, is repealed and the following enacted in its place:

F. Cocaine means:

(1) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine and their salts have been removed; and

(2) A mixture or preparation that contains any quantity of any of the following substances:

(a) Cocaine, its salts, optical and geometric isomers and salts of isomers;

(b) Ecgonine, its derivatives, their salts, isomers and salts of isomers; or

(c) Cocaine base, which is the alkaloid form of cocaine;

Sec. 2. 17-A MRSA §1103, sub-§3, ¶B, as enacted by PL 1989, c. 924, §8, is amended to read:

B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base;

Sec. 3. 17-A MRSA §1105, sub-§1, ¶B, as repealed and replaced by PL 1989, c. 600, Pt. A, §§2 and 3, is amended to read:

B. The person violates section 1103, 1104 or 1106, and, at the time of the offense, the person has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year, or under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year. For purposes of this paragraph, a person ~~shall have~~ has been convicted of an offense on the date the judgment of conviction was entered by the ~~trial~~ court;

Sec. 4. 17-A MRSA §1105, sub-§1, ¶D, as amended by PL 1989, c. 924, §10, is further amended to read:

D. A person violates section 1103 or 1106, and, at the time of the offense, the person trafficks in or furnishes cocaine in a quantity of 112 grams or more ~~or cocaine in the form of cocaine base in a quantity of 32 grams or more;~~

Sec. 5. 17-A MRSA §1106, sub-§3, ¶B, as enacted by PL 1989, c. 924, §12, is amended to read:

B. Seven grams or more of cocaine ~~or 2 grams or more of cocaine in the form of cocaine base;~~

Sec. 6. 17-A MRSA §1107, sub-§2, as amended by PL 1989, c. 384, §4 and c. 538, §§3 and 4, is repealed and the following enacted in its place:

2. Violation of this section is:

A. A Class C crime if the drug is:

(1) Heroin (diacetylmorphine); or

(2) Cocaine in the form of cocaine base and at the time of the offense the person has been convicted of any offense under this chapter or under any law of the United States, another state or a foreign country relating to scheduled drugs, as defined in this chapter. For the purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;

B. A Class D crime if the drug is:

(1) A schedule W drug other than:

(a) Heroin (diacetylmorphine); or

(b) Cocaine in the form of cocaine base and the person has a prior scheduled drug conviction within the meaning of paragraph A, subparagraph (2) of this section; or

(2) A schedule X drug;

C. A Class E crime if the drug is a schedule Y or Z drug; or

D. A Class B crime if the drug is cocaine and the quantity possessed is more than 14 grams or cocaine in the form of cocaine base and the quantity possessed is more than 4 grams.

See title page for effective date.

CHAPTER 636

H.P. 1123 - L.D. 1567

An Act to Facilitate Sewer and Water Main Extensions

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

Sec. 1. 38 MRSA §1163, as repealed and replaced by PL 1993, c. 721, Pt. B, §3 and affected by Pt. H, §1, is repealed and the following enacted in its place:

§1163. Sewer extensions

1. Assurance. A sanitary district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

A. Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

B. The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

If the municipal officers fail to issue a response to a written request from a district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees of the district shall publish notice of the proposed extension in a newspa-

per having a general circulation that includes all municipalities through which the sewer extension will pass.

2. Appeal. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the State Planning Office, referred to in this subsection as the "office," for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter IV, the following procedures apply to the review by the office.

A. The office may request any additional information from the sanitary district, the municipality or the department. All information requested by the office must be submitted within 30 days of the request, unless an extension is granted by the office.

B. Within a reasonable time, the office shall hold a hearing. The office shall give at least 7 days' written notice of the hearing to the sanitary district, the municipality and the party that requested the hearing. The hearing is informal and the office may receive any information it considers necessary.

C. Within 15 days of the hearing and within 60 days of the request for review, the office shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the office constitutes final agency action.

D. Notwithstanding subsection 1, if the office determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the office shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sanitary district may construct the sewer extension.

Sec. 2. 38 MRSA §1252, sub-§7, as repealed and replaced by PL 1993, c. 721, Pt. B, §5 and affected by Pt. H, §1, is repealed and the following enacted in its place:

7. Sewer extensions. Sewer extensions are governed by this subsection.

A. A sewer district may not construct any sewer extension unless it acquires from the municipal officers or the designee of the municipal officers of any municipality through which the sewer extension will pass written assurance that:

(1) Any development, lot or unit intended to be served by the sewer extension is in conformity with any adopted municipal plans and ordinances regulating land use; and

(2) The sewer extension is consistent with adopted municipal plans and ordinances regulating land use.

If the municipal officers fail to issue a response to a written request from a district for written assurance within 45 calendar days of receiving the request in writing, the written assurance is deemed granted.

Not less than 7 days prior to the meeting at which the trustees will take final action on whether to proceed with the extension, the trustees of the district shall publish notice of the proposed extension in a newspaper having a general circulation that includes all municipalities through which the sewer extension will pass.

B. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to paragraph A, an aggrieved party may appeal, within 15 days of the decision, to the State Planning Office, referred to in this paragraph as the "office," for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter IV, the following procedures apply to the review by the office.

(1) The office may request any additional information from the sewer district, the municipality or the department. All information requested by the office must be submitted within 30 days of the request, unless an extension is granted by the office.

(2) Within a reasonable time, the office shall hold a hearing. The office shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and the office may receive any information it considers necessary.

(3) Within 15 days of the hearing and within 60 days of the request for review, the office shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the office constitutes final agency action.

(4) Notwithstanding paragraph A, if the office determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the office shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sewer district may construct the sewer extension.

See title page for effective date.

CHAPTER 637

S.P. 622 - L.D. 1630

An Act to Allow the Diagnosis of Biologically-based Mental Illness by Licensed Psychologists

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

Sec. 1. 24 MRSA §2325-A, sub-§5-C, ¶A, as repealed and replaced by PL 1995, c. 407, §1, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 2. 24 MRSA §2325-A, sub-§5-D, ¶A, as enacted by PL 1995, c. 407, §2, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 3. 24-A MRSA §2749-C, sub-§1, ¶A, as enacted by PL 1995, c. 407, §5, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 4. 24-A MRSA §2843, sub-§5-C, ¶A, as repealed and replaced by PL 1995, c. 407, §6, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 5. 24-A MRSA §2843, sub-§5-D, ¶A, as enacted by PL 1995, c. 407, §7, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 6. 24-A MRSA §4234-A, sub-§6, ¶A, as enacted by PL 1995, c. 407, §10, is amended to read:

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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

Sec. 7. 24-A MRSA §4234-A, sub-§7, ¶A, as enacted by PL 1995, c. 407, §10, is amended to read:

A. All individual and group contracts ~~shall~~ 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 or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of human behavior:

- (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.

See title page for effective date.

CHAPTER 638

H.P. 1216 - L.D. 1666

An Act to Include Sexual Contact in the Definition of Prostitution

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

Sec. 1. 17-A MRSA §851, sub-§1, as amended by PL 1989, c. 401, Pt. B, §3, is further amended to read:

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person engaging in prostitution or a 3rd person;

Sec. 2. 17-A MRSA §851, sub-§1-A, as amended by PL 1989, c. 401, Pt. B, §4, is further amended to read:

1-A. "Engages a prostitute" means providing or agreeing to provide, either to the person whose prostitution is sought or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251;

Sec. 3. 17-A MRSA §851, sub-§2, as amended by PL 1989, c. 401, Pt. B, §5, is further amended to read:

2. "Promotes prostitution" means:

A. Causing or aiding another to commit or engage in prostitution, other than as a patron; ~~or~~

B. Publicly soliciting patrons for prostitution. Publicly soliciting patrons for prostitution ~~shall include~~ includes, but is not ~~be~~ limited to, an offer, made in a public place, to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person making the offer or a 3rd person; ~~or~~

C. Providing persons for purposes of prostitution; ~~or~~

D. Leasing or otherwise permitting a place controlled by the defendant, alone or in association with others, to be regularly used for prostitution; ~~or~~

E. Owning, controlling, managing, supervising or otherwise operating, in association with others, a house of prostitution or a prostitution business; ~~or~~

F. Transporting a person into or within the State with the intent that such other person engage in prostitution; or

G. Accepting or receiving, or agreeing to accept or receive, a pecuniary benefit pursuant to an agreement or understanding with any person, other than with a patron, whereby ~~he the person~~ participates or he the person is to participate in the proceeds of prostitution.

See title page for effective date.

CHAPTER 639

S.P. 697 - L.D. 1771

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-§5-A is enacted to read:

5-A. Agreements with other states. The State Tax Assessor may enter into agreements with the tax departments of other states that the assessor considers appropriate for assistance in the administration and enforcement of this Title.

Sec. 2. 36 MRSA §174, sub-§1, as enacted by PL 1981, c. 364, §12, is amended to read:

1. Generally. If ~~any~~ a taxpayer fails to pay ~~any~~ a tax imposed by this Title on or before the due date of that tax, the State Tax Assessor, through the Attorney General, may commence a civil action within 6 years of ~~that due date~~ the issuance of the demand notice required by section 171 in ~~any~~ a court of competent jurisdiction ~~within~~ in this State in the name of the State for the recovery of that tax. In this action, the certificate of the ~~State Tax Assessor~~ assessor showing the amount of the delinquency is prima facie evidence of the levy of the tax, of the delinquency and of the compliance by the ~~State Tax Assessor~~ assessor with this Title in relation to the assessment of the tax.

Sec. 3. 36 MRSA §176-A, sub-§16, as amended by PL 1993, c. 395, §5, is further amended to read:

16. Time for collection of taxes. Taxes must be collected by levy within 10 years after the assessment of the tax; becomes final or ~~prior to~~ before the expiration of ~~any~~ the period of collection agreed upon in writing by the assessor and the taxpayer. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. ~~Any~~ A levy action ordered by the assessor before the expiration of the

10-year period continues beyond the expiration of the 10-year period for a period of 6 months from the date ~~such~~ the levy is first made or until the liability out of which ~~such~~ the levy arose is satisfied or becomes unenforceable, whichever occurs first. The running of the 10-year period is stayed during the time that a consensual payment plan between the taxpayer and the assessor is in effect. ~~When any question relative to the taxes is pending before any agency or court at the end of the 10-year period, the assessor's right to collect any tax due by levy continues until 6 years after the final determination of the question.~~ When a taxpayer files for protection under the United States Bankruptcy Code, the assessor's right to collect ~~any~~ the tax due by levy continues until 6 years after the date of discharge or dismissal of the bankruptcy proceeding or until 10 years after the assessment of the tax becomes final, whichever occurs later.

Sec. 4. 36 MRSA §177, sub-§1, as amended by PL 1991, c. 546, §1, is further amended to read:

1. Generally. All sales and use taxes collected by ~~any~~ a person pursuant to Part 3, all taxes collected by ~~any~~ a person under color of Part 3 ~~which that~~ have not been properly returned or credited to the persons from whom they were collected, all taxes collected by ~~any~~ or imposed on a person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by ~~any~~ a person pursuant to chapter 827 constitute a special fund in trust for the State Tax Assessor. The liability for the taxes or fees and ~~any~~ the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes.

Sec. 5. 36 MRSA §187-B, sub-§7, ¶G, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, is amended to read:

G. The amount subject to a penalty imposed by subsections ~~1 and 2~~ 1, 2 and 4-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

Sec. 6. 36 MRSA §191, sub-§2, ¶T is enacted to read:

T. The disclosure by employees of the Bureau of Taxation to designated representatives of the Secretary of State of information required by the Secretary of State for the administration of the special fuel tax imposed by chapter 459.

Sec. 7. 36 MRSA §193 is enacted to read:

§193. Returns; declaration covering perjury; submission of returns and funds by electronic means

Any return, report or other document required to be made pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and made under the penalties of perjury. The assessor may allow the filing of a return or document by electronic data submission or by telephone. The assessor may also allow the payment of a tax or the refund of a tax by the electronic transfer of funds. An electronic funds transfer allowed by the assessor pursuant to this section is considered a return. The assessor may adopt rules to establish procedures necessary to implement the provisions of this section.

Sec. 8. 36 MRSA §1752, sub-§10, as repealed and replaced by PL 1987, c. 497, §21, is amended to read:

10. Retailer. "Retailer" means ~~any~~ a person who makes retail sales or who is required to register by section 1754 or section 1754-A or who is registered under section 1756.

Sec. 9. 36 MRSA §2113, as amended by PL 1991, c. 780, Pt. CCC, §3, is further amended to read:

§2113. Criminal penalties

~~Any violation of any provision of chapters 211 to 225 this Part for which a penalty or forfeiture is not provided by any other Title of the Revised Statutes shall be provision of law is a Class E crime, except that any violation of any provision of this Part for which a penalty or forfeiture is not provided by any other provision of law by a person who has a prior conviction under the same provision within the prior 3 years is a Class D crime. For the purpose of this section, every person required to register under section 1754 who shall engage in any business for which registration is required under section 1754, without being the holder of a currently valid registration certificate, shall commit a separate offense for each calendar week or part thereof during which he shall be so engaged.~~

~~For purposes of this section, a person required to register under section 1754 A who engages in any business for which registration is required under section 1754 A without being the holder of a currently valid registration certificate commits a separate offense for each calendar month or part of a month during which that person engages in that business.~~

Sec. 10. 36 MRSA §3204-B, sub-§1, as enacted by PL 1995, c. 271, §7, is amended to read:

1. Generally. Except as provided in subsection 2, a person may not operate a motor vehicle on the public ways of this State or allow a motor vehicle to be operated 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. For purposes of this subsection, there is a rebuttable presumption that the owner of a motor vehicle has operated the motor vehicle or allowed the motor vehicle to be operated on the public ways of this State with dyed fuel or other fuel when the tax imposed by section 3203 has not been paid by the owner of the motor vehicle.

Sec. 11. 36 MRSA §3219-A, sub-§2, ¶G, as enacted by PL 1995, c. 271, §11, is amended to read:

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~~ 3206. Each day or part of a day during which this paragraph is violated constitutes a separate violation within the meaning of this section.

Sec. 12. 36 MRSA §3223, as repealed and replaced by PL 1989, c. 502, Pt. A, §134, is repealed.

Sec. 13. 36 MRSA §3743 is amended to read:

§3743. Intent of provisions

~~The intent and purpose of this chapter, imposing an estate tax, is to obtain for this State the benefit of the credit allowed under Title III, section 301, subsection (b) of the Federal Revenue Act of 1926 to the extent that this State may be entitled by this chapter by imposing an additional tax, and the same shall this chapter must be liberally construed to effect this purpose. The State Tax Assessor may make such regulations relative to the assessment and the collection of the tax provided by this chapter, not inconsistent with law, as may be necessary to carry out this intent.~~

Sec. 14. 36 MRSA §4305, as repealed and replaced by PL 1977, c. 694, §711, is amended to read:

§4305. Certification

Every processor or shipper of blueberries ~~each year before processing or shipping blueberries~~, obtain certification from the State Tax Assessor. The ~~State Tax Assessor~~ assessor shall provide the applications for the certification, which ~~shall~~ must contain the name under which the processor or shipper is transacting business ~~within in~~ the State, the place or places of business, the names and addresses of the ~~several~~

persons constituting a firm or partnership; and, if a corporation, the corporate name and names and addresses of its principal officers and agents ~~within in~~ the State. ~~No A processor or shipper shall may not~~ process or ship ~~any~~ blueberries until the certification has been issued. Certification may be suspended or revoked by the ~~State Tax Assessor~~ assessor for failure to pay ~~such blueberry~~ the tax as may be due imposed by section 4303 or for the filing of false or fraudulent reports or returns as required by the State Tax Assessor. ~~All certification shall expire July 1st, annually, and shall A certificate issued by the assessor pursuant to this section is not be deemed to be a~~ license within the meaning of that term in the Maine Administrative Procedure Act.

Sec. 15. 36 MRSA §5122, sub-§2, ¶G, as enacted by PL 1989, c. 880, Pt. G, §4, is amended to read:

G. For income tax years commencing on or after January 1, 1989, an amount equal to the total premiums spent for insurance policies for long-term care ~~which that~~ have been certified by the Superintendent of Insurance as complying with Title 24-A, chapter 68; ~~and~~

Sec. 16. 36 MRSA §5122, sub-§2, ¶H, as amended by PL 1991, c. 591, Pt. N, §7 and affected by §8, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of ~~any the~~ net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H and that pursuant to the ~~United States Internal Revenue Code~~ Code, Section 172 was carried back for federal income tax purposes, but only to the extent that:

- (1) Maine ~~net~~ taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over; and
- (3) The amount has not been previously used as a modification pursuant to this subsection; ~~and~~

Sec. 17. 36 MRSA §5122, sub-§2, ¶I is enacted to read:

I. For income tax years beginning on or after January 1, 1991, an amount equal to the amount by which federal taxable income was reduced because of vessel earnings from fishing operations that were contributed to a capital construction fund.

Sec. 18. 36 MRSA §5164, sub-§3, as enacted by P&SL 1969, c. 154, §F, §1, is amended to read:

3. Alternate attribution of adjustment. The assessor may ~~by regulation~~ authorize, upon the taxpayer's written request, the use of ~~such~~ other methods of determining to whom the items comprising the fiduciary adjustment ~~shall be~~ are attributed, as may be appropriate and equitable, ~~on such terms and conditions as the assessor may require.~~

Sec. 19. 36 MRSA §5176, sub-§2, as enacted by P&SL 1969, c. 154, §F, §1, is amended to read:

2. Alternate methods. The assessor may ~~by regulation establish~~ authorize, upon the taxpayer's written request, the use of such other method or methods of determining the respective shares of the beneficiaries and of the estate or trust in its income derived from sources in this State, and in the modifications related ~~thereto~~ to such other method or methods, as may be appropriate and equitable.

Sec. 20. 36 MRSA §5200-A, sub-§2, ¶H, as amended by PL 1991, c. 591, Pt. N, §12 and affected by §13, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of ~~any the~~ net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 and that, pursuant to the ~~United States Internal Revenue Code~~ Code, Section 172, was carried back for federal income tax purposes, but only to the extent that:

- (1) Maine ~~net~~ taxable income is not reduced below zero;
- (2) The taxable year is within the allowable federal period for carry-over; and
- (3) The amount has not been previously used as a modification pursuant to this subsection.

Sec. 21. 36 MRSA §§5232, 5233 and 5240, as enacted by P&SL 1969, c. 154, §F, §1, are repealed.

Sec. 22. 36 MRSA §5241, as amended by PL 1987, c. 819, §12, is further amended to read:

§5241. Partnership and S corporation returns

Every partnership and S corporation ~~having with~~ a resident partner or shareholder or ~~having any with~~ income derived from sources in this State, determined in accordance with the applicable rules of section 5142 as in the case of a nonresident individual, shall

make a return for the taxable year setting forth all items of income, gain, loss, and deduction, ~~and~~ the names and addresses of the individuals whether residents or nonresidents who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual and ~~such~~ other pertinent information as the ~~assessor~~ State Tax Assessor may prescribe ~~by regulations and instructions~~. Any return, statement or other document required of a partnership must be signed by one or more partners. The appropriate return ~~shall~~ must be filed on or before the 15th day of the 4th month for partnerships or the 15th day of the 3rd month for S corporations following the close of each taxable year. For purposes of this section, "taxable year" means a year or period ~~which that~~ would be a taxable year of the partnership or S corporation if it were subject to the tax under this Part. The ~~State Tax Assessor~~ assessor may elect to waive the requirement to file a Maine return as established in this section for ~~any~~ particular a tax year and in its place require the partnership or S corporation to file a copy of its federal partnership or S corporation return.

Sec. 23. 36 MRSA §5242, as enacted by P&SL 1969, c. 154, §F, §1, is amended to read:

§5242. Information returns

The ~~assessor~~ State Tax Assessor may ~~prescribe regulations and instructions requiring~~ require returns of information to be made and filed on or before February 28th of each year by ~~any~~ a person making payment or crediting in ~~any~~ a calendar year the amounts of \$600 or more (\$10 or more in the case of interest or dividends) to ~~any~~ a person who may be subject to the tax imposed under this Part. ~~Such~~ The returns may be required of ~~any~~ a person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this State, or of ~~any~~ a municipal corporation or political subdivision of this State, having the control, receipt, custody, disposal or payment of dividends, interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits, or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on wages, required to be furnished by an employer to an employee, ~~shall constitute~~ constitutes the return of information required to be made under this section with respect to ~~such those~~ wages.

Sec. 24. 36 MRSA §5250, sub-§3, as amended by PL 1979, c. 541, Pt. A, §243, is further amended to read:

3. Withholding agreements. The assessor may enter into agreements with the tax departments of other states, ~~which that~~ require income tax to be

withheld from the payment of wages and salaries, so as to govern the amounts to be withheld from the wages and salaries of residents of ~~such those~~ states under this chapter. ~~Such~~ The agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, ~~under regulations prescribed by the assessor,~~ may relieve employers in this State from withholding income tax on wages and salaries paid to nonresident employees. The agreements authorized by this subsection are subject to the condition that the tax department of ~~such the~~ other states grant similar treatment to residents of this State.

Sec. 25. 36 MRSA §5250-A, sub-§3, ¶¶C and D, as enacted by PL 1991, c. 591, Pt. Y, §2 and affected by §3, are amended to read:

C. The consideration for the property is less than \$50,000; ~~or~~

D. Written notification of the withholding requirements of this section has not been provided to the buyer; ~~or~~

Sec. 26. 36 MRSA §5250-A, sub-§3, ¶E is enacted to read:

E. The seller is the State or an agency or a political subdivision of the State, the Federal Government or an agency of the Federal Government, an organization exempt from income taxes pursuant to the Code, Section 501(a), an insurance company exempt from the tax imposed by this Part or a business entity referred to in Title 24-A, section 1157, subsection 5, paragraph B, subparagraph (1) that is exempt from the tax imposed by this Part.

Sec. 27. 36 MRSA §5252, as amended by PL 1981, c. 371, §3, is further amended to read:

§5252. Credit for tax withheld

Wages and other items of income upon which tax is required to be withheld ~~shall be~~ are taxable under this Part as if no withholding were required, but ~~any the~~ amount of tax actually deducted and withheld under this chapter in ~~any a~~ calendar year ~~shall be~~ is deemed to have been paid to the assessor on behalf of the person from whom withheld, and ~~such the~~ person ~~shall be~~ is credited with having paid that amount of tax for the taxable year beginning in ~~such the~~ calendar year. ~~For a taxable year of less than 12 months, the credit shall be made under regulations of the assessor.~~ If more than one taxable year begins in a calendar year, the amount is allowed as a credit for the most recent taxable year.

Sec. 28. 36 MRSA §5266, as amended by PL 1977, c. 694, §724, is repealed.

Sec. 29. 36 MRSA §5276-A, sub-§1, as amended by PL 1993, c. 395, §23, is further amended to read:

1. Generally. ~~Any~~ An agency of the State, including the University of Maine System or the Maine Technical College System, that is authorized to collect from ~~any~~ an individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The ~~State Tax Assessor, assessor,~~ upon ~~any such~~ notification, shall assist the requesting agency by setting off that debt, ~~pursuant to rules promulgated by the State Tax Assessor,~~ against ~~any~~ a refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Human Services has contracted to collect, pursuant to Title 19, section 448-A or 495, subsection 2, are eligible, under the provisions of this section, for setoff against ~~any~~ a refund due the obligated individual. The ~~State Tax Assessor assessor~~ shall provide the creditor agency with the name, address and social security number of each debtor whose refund is subject to setoff.

Sec. 30. 36 MRSA §5284, sub-§1, as amended by PL 1993, c. 253, §1, is further amended to read:

1. Maine Endangered and Nongame Wildlife Fund. Taxpayers who, when filing their return, are entitled to a refund under this Part may designate ~~any~~ that a part of that refund be paid into the Maine Endangered and Nongame Wildlife Fund established in Title 12, section 7757. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Endangered and Nongame Wildlife Fund by including with that taxpayer's return sufficient funds to make the contribution. Each individual income tax return form must contain a designation in substantially the following form: "Contribution to Maine Endangered and Nongame Wildlife Fund: () \$5, () \$10, () \$25 or () Other \$."

Sec. 31. 36 MRSA §5285, sub-§1, as amended by PL 1993, c. 600, Pt. A, §280, is further amended to read:

1. Maine Children's Trust Incorporated. Taxpayers who, when filing their returns, are entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Children's Trust Incorporated established in Title 22, chapter 1058. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Children's Trust Incorporated by including with that taxpayer's return sufficient funds to make the contribution. Each individual income tax return form must contain a designation in substantially the

following form: "Contributions to Maine Children's Trust Incorporated: () \$5, () \$10, () \$25 or () Other \$."

Sec. 32. 36 MRSA §6207, sub-§1, ¶A-1, as amended by PL 1995, c. 368, Pt. CCC, §8 and affected by §11, is further amended to read:

A-1. Fifty percent of that portion of the benefit base that exceeds 5.0% but does not exceed 10.0% of income ~~and plus~~ 100% of that portion of the benefit base that exceeds 10% of income to a maximum payment of \$700.

Sec. 33. 36 MRSA §6213, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

§6213. Appeal

A denial in whole or in part of relief claimed under this chapter may be appealed in accordance with section 151 and the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. 34. 36 MRSA §6652, sub-§1, as enacted by PL 1995, c. 368, Pt. FFF, §2, is amended to read:

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, except for chapters 111 and 112, with respect to eligible property and who has paid those taxes is entitled to reimbursement of those taxes from the State.

Sec. 35. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 36, section 6652, subsection 1 applies retroactively to June 29, 1995.

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

Effective April 10, 1996.

CHAPTER 640

H.P. 1251 - L.D. 1713

An Act to Amend the Tax Laws Regarding Retail Business Registration and Penalty Relief to Taxpayers with Extensions

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

Sec. 1. 36 MRSA §1752, sub-§10, as repealed and replaced by PL 1987, c. 497, §21, is amended to read:

10. Retailer. "Retailer" means any person who makes retail sales or who is required to register by section 1754 1754-B or is registered under section 1756.

Sec. 2. 36 MRSA §1754, as amended by PL 1989, c. 880, Pt. H, is repealed.

Sec. 3. 36 MRSA §1754-B is enacted to read:

§1754-B. Registration of sellers

1. Persons required to register. The following persons, other than casual sellers, shall register with the assessor and collect and remit taxes in accordance with the provisions of this Part:

A. Every seller of tangible personal property or taxable services, whether or not at retail, that maintains in this State any office, manufacturing facility, distribution facility, warehouse or storage facility, sales or sample room or other place of business;

B. Every seller of tangible personal property or taxable services that does not maintain a place of business in this State but makes retail sales in this State or solicits orders, by means of one or more salespeople within this State, for retail sales within this State;

C. Every lessor engaged in the leasing of tangible personal property located in this State that does not maintain a place of business in this State but makes retail sales to purchasers from this State;

D. Every consignee, agent or salesperson that makes retail sales in this State of tangible personal property or taxable services on behalf of a principal that is outside of this State if the principal is not the holder of a valid registration certificate;

E. Every agent, representative, salesperson, solicitor or distributor that receives compensation by reason of sales of tangible personal property or taxable services made outside this State by a principal for use, storage or other consumption in this State;

F. Every person that manages or operates a hotel, rooming house or tourist or trailer camp in this State or collects or receives rents from a hotel, rooming house or tourist or trailer camp; and

G. Every seller of tangible personal property or taxable services that has a substantial physical

presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. The following activities do not constitute a substantial physical presence for purpose of this paragraph:

(1) Solicitation of business in this State through catalogs, flyers, telephone or electronic media when delivery of ordered goods is affected by the United States mail or by an interstate 3rd-party carrier;

(2) Attending trade shows, seminars or conventions in this State;

(3) Holding a meeting of a corporate board of directors or shareholders or holding a company retreat or recreational event in this State;

(4) Maintaining a bank account or banking relationship in this State; or

(5) Using a vendor in this State for printing, drop shipping or telemarketing services.

2. Registration certificates. Application forms for sales tax registration certificates must be prescribed and furnished free of charge by the assessor. The assessor shall issue a registration certificate to each applicant that properly completes and submits an application form. A separate application must be completed and a separate registration certificate issued for each place of business. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act.

When a retailer maintains a place of business in this State, the registration certificate must be conspicuously displayed at that place of business. In the case of a retailer that does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle constitutes a place of business.

3. Penalties. A person that is required by this section to register as a retailer with the assessor and that makes retail sales in this State without being so registered commits a Class E crime. When a person's sales tax registration certificate has been revoked by the assessor pursuant to section 1757, that person commits a Class D crime by continuing to make retail sales in this State.

Sec. 4. 36 MRSA §1756, as amended by PL 1987, c. 497, §35, is repealed and the following enacted in its place:

§1756. Voluntary registration

Every seller of tangible personal property or taxable services that is not required by section 1754-B to register may register upon those terms that the assessor prescribes. Upon registration, the seller has the rights and duties of a person required to be registered and is subject to the same penalties, except that the seller's liability may be limited to tax actually collected. The seller so registered may at any time surrender the seller's registration certificate and request that the registration certificate be canceled. Upon receipt of the certificate and request, the assessor shall grant the cancellation, if it appears to the assessor that the seller has satisfied all liability to the State and that the seller is not required by law to register. Upon surrender of the certificate, the seller must cease to collect sales or use taxes upon sales that occur on and after the date of the surrender.

Sec. 5. 36 MRSA §1760, sub-§21 is amended to read:

21. Automobiles used in driver education program. Sales to automobile dealers, registered under section ~~1754~~ 1754-B, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs.

Sec. 6. 36 MRSA §1861, as amended by PL 1991, c. 846, §25, is further amended to read:

§1861. Imposition

A tax is imposed, at the respective rate provided in section 1811, on the storage, use or other consumption in this State of tangible personal property or a service, the sale of which would be subject to tax under section 1764 or 1811. Every person so storing, using or otherwise consuming is liable for the tax until the person has paid the tax or has taken a receipt from the seller, as duly authorized by the ~~State Tax Assessor~~ assessor, showing that the seller has collected the sales or use tax, in which case the seller is liable for it. Retailers registered under section ~~1754~~ 1754-B or 1756 shall collect the tax and make remittance to the ~~State Tax Assessor~~ assessor. The amount of the tax payable by the purchaser is that provided in the case of sales taxes by section 1812. When tangible personal property purchased for resale is withdrawn from inventory by the retailer for the retailer's own use, use tax liability accrues at the date of withdrawal.

Sec. 7. 36 MRSA §2113, first ¶, as amended by PL 1977, c. 696, §277, is further amended to read:

~~Any~~ A violation of any provision of chapters 211 to 225 for which a penalty or forfeiture is not provided by any other Title of the Revised Statutes ~~shall be~~ is a Class E crime. For the purpose of this section, every person required to register under section ~~1754~~ 1754-B who ~~shall engage~~ engages in any business for which registration is required under section ~~1754~~ 1754-B, without being the holder of a currently valid registration certificate, ~~shall commit~~ commits a separate offense for each calendar week or part thereof during which ~~he shall be so engaged~~ that person engages in that business.

Sec. 8. 36 MRSA §5231, sub-§3 is enacted to read:

3. Penalty. A taxpayer that files an income tax or franchise tax return after the due date with a valid extension and that remits the amount of the balance due with that return will not incur a failure-to-pay penalty imposed by section 187-B, subsection 2 unless the amount remitted with the return is more than 10% of the total tax liability shown on the return.

Sec. 9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Bureau of Taxation

Positions - Legislative Count	(5.0)
Personal Services	\$161,802
All Other	128,355
Capital Expenditures	44,081
TOTAL	\$334,238

Provides funds for one Principle Revenue Agent position, 2 Revenue Agent positions, 2 Tax Examiner positions and 3 Office Review contract positions and associated administrative costs to enforce the expanded sales and use tax registration requirements.

See title page for effective date.

CHAPTER 641**H.P. 1212 - L.D. 1662****An Act to Correct a Technical Error
Relating to the Research Expense
Tax Credit**

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 a technical change to Maine's new research expense tax credit would make that credit worthless for the majority of taxpayers; and

Whereas, legislative action is immediately necessary in order to ensure that the original intent behind the research expense tax credit is fulfilled; 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 §5122, sub-§1, ¶G, as amended by PL 1995, c. 368, Pt. GGG, §1, is further 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. 2. 36 MRSA §5122, sub-§1, ¶H, as amended by PL 1995, c. 368, Pt. GGG, §2, 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. 3. 36 MRSA §5122, sub-§1, ¶I, as enacted by PL 1995, c. 368, Pt. GGG, §3, is repealed.

Sec. 4. 36 MRSA §5200-A, sub-§1, ¶H, as amended by PL 1995, c. 368, Pt. GGG, §4, 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. 5. 36 MRSA §5200-A, sub-§1, ¶I, as amended by PL 1995, c. 368, Pt. GGG, §5, is further 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. 6. 36 MRSA §5200-A, sub-§1, ¶J, as enacted by PL 1995, c. 368, Pt. GGG, §6, is repealed.

Sec. 7. Application. This Act applies to any tax year beginning on or after January 1, 1996.

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

Effective April 10, 1996.

CHAPTER 642**H.P. 1222 - L.D. 1672****An Act to Amend Certain Laws
Administered by 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, certain lakes may experience severe algae bloom conditions that can not be controlled through known restoration methods rendering them unfit for drinking water and recreational purposes; and

Whereas, temporary treatments to alleviate these bloom conditions may need to be made before the 90-day term following adjournment; 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 §341-D, sub-§3, ¶¶E and F, as enacted by PL 1989, c. 890, Pt. A, §13 and affected by §40, are amended to read:

E. There has been a change in any condition or circumstance that requires revocation, suspension or a temporary or permanent modification of the terms of the license; ~~or~~

F. The licensee has violated any law administered by the department; or

Sec. 2. 38 MRSA §341-D, sub-§3, ¶G is enacted to read:

G. The license fails to include any standard or limitation required pursuant to the federal Clean Air Act Amendments of 1990.

Sec. 3. 38 MRSA §352, sub-§5-A, as amended by PL 1995, c. 493, §1, is further amended by amending the first paragraph to read:

5-A. Accounting system. In order to determine the extent to which the functions set out in this section are necessary for the licensing process or are being performed in an efficient and expeditious manner, the commissioner shall require that all employees of the department involved in any aspect of these functions keep accurate and regular daily time records. These records must describe the matters worked on, services performed and the amount of time devoted to those matters and services, as well as amounts of money expended in performing those functions. Records must be kept for a sufficient duration of time as determined by the commissioner to establish to the commissioner's satisfaction that the fees are appropriate. This subsection is repealed 90 days after adjournment of the Second Regular Session of the ~~117th~~ 118th Legislature.

Sec. 4. 38 MRSA §361-A, sub-§6, as enacted by PL 1971, c. 470, §1, is repealed and the following enacted in its place:

6. Transfer of ownership. "Transfer of ownership" means a change in the legal entity that owns a property, facility or structure that is the subject of a license issued by the department.

Sec. 5. 38 MRSA §414-A, sub-§1-C is enacted to read:

1-C. License for the use of algicides in Class GPA waters. The commissioner may issue a license to a municipality for the discharge of copper compounds or other materials registered by the Department of Agriculture, Food and Rural Resources to control excessive algae growth in Class GPA waters when the commissioner has determined that:

A. A lake restoration plan to reduce algae growth has been designed and implemented in cooperation with the department;

B. That plan has been found by the department to have failed to achieve the desired level of restoration in a reasonable period of time;

C. Because of technical or financial limitations, there is no further plan for restoration;

D. The affected water has a recent history of severe algae blooms of less than one meter Secchi disk transparency;

E. A watershed plan to further reduce phosphorus loading to the affected water is being implemented by responsible parties including the department and all affected municipalities; and

F. The Department of Inland Fisheries and Wildlife has found that the discharge will not have an adverse impact on the fishery management plan of that water body.

This license allows for no more than one application of copper compounds or other registered algicides per year for a period not to exceed 5 years. Algicides must be applied in an amount and in a manner that minimizes risk to nontarget organisms. The individual conducting the treatment must be certified by the Board of Pesticides Control for the use of aquatic pesticides. Application of an algicide may only occur after the Secchi disk transparency of the water is less than 2 meters. Relicensing is contingent upon an assessment of the water quality and the effectiveness of the phosphorus reduction plan for the watershed.

Sec. 6. 38 MRSA §486-A, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §94, is further amended to read:

3. Findings of fact; order. After the department adjourns any hearing held under this section, the department shall make findings of fact and issue an order granting or denying permission to the person proposing the development to construct or operate the development, as proposed, or granting that permission upon such terms and conditions as the department considers advisable to protect and preserve the environment and the public's health, safety and general welfare, ~~except in the case of any low-level radioactive waste storage or disposal facility, in which case the board shall act in accordance with section 1478.~~

Sec. 7. 38 MRSA §584-A, sub-§5, as enacted by PL 1971, c. 570, is repealed.

Sec. 8. 38 MRSA §1310-F, sub-§6 is enacted to read:

6. Contract enforcement. At the request of a recipient of state funds under this section, the commissioner may provide technical assistance and, through the Attorney General, legal assistance in the administration or enforcement of any contract entered into by or for the benefit of the recipient in connection with a landfill closure and remediation project assisted by these funds. When state funds have been disbursed pursuant to this section, the State, acting through the Attorney General, has a direct right of action against the recipient of the funds, or a contractor, subcontractor, architect, engineer or manufacturer of equipment purchased with the funds, to recover the funds which may be properly awarded as actual damages in an action alleging negligence or breach of contract.

Sec. 9. 38 MRSA §1310-N, sub-§6-D, as enacted by PL 1993, c. 680, Pt. A, §37, is amended to read:

6-D. Solid waste facilities licensed under rules valid on or after May 24, 1989. A solid waste facility license issued under applicable solid waste management rules valid on or after May 24, 1989 remains in effect unless modified, revoked or suspended under section 341-D, subsection 3. These licensees must:

- A. Comply with applicable operating rules adopted by the board;
- B. Comply with annual facility reporting rules adopted by the board; and
- C. Beginning 5 years after the date of issuance of the license, pay an annual facility reporting fee established by the commissioner. The annual fee established in this paragraph must be an amount equal to 20% of the relicensing fee that would have applied to that facility.

Notwithstanding the terms of this subsection, sludge or residual utilization licenses may be voluntarily surrendered by the license holder upon department approval.

Sec. 10. 38 MRSA §1318-B, sub-§1, as repealed and replaced by PL 1991, c. 208, §2, is amended to read:

1. Reporting. Except as provided in this subsection, the responsible party or person causing the discharge shall report a discharge immediately to the Department of Public Safety, which shall immediately notify the Commissioner of Environmental Protection and the public safety agency of the municipality in which the discharge takes place. Upon submission to the commissioner of a written spill prevention control and clean-up plan that meets the criteria of section 1318-C, subsection 1, a discharge containing a hazardous matter that is covered by the plan must be

reported only if the discharge equals or exceeds the applicable reportable quantity for that particular hazardous matter as specified in Code of Federal Regulations, Title 40, Parts 302.4, 302.5 and 302.6 (b)(1)), revised as of July 1, ~~1990~~ 1994, or when the discharge extends or spreads beyond the area on the site covered by the spill prevention control and clean-up plan.

Sec. 11. 38 MRSA §1318-B, sub-§4 is enacted to read:

4. Limited liability for responders. A person who voluntarily, without expectation of monetary or other compensation, assists or advises the commissioner in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous matter is not liable for removal costs, damages, injuries, civil liabilities or penalties that result from actions taken or omitted in the course of rendering assistance or advice in accordance with the directions of the commissioner. This liability limitation does not apply:

A. If the person is grossly negligent or engages in willful misconduct; or

B. To a person who caused the discharge or threatened discharge or otherwise is determined to be a responsible party.

Sec. 12. 38 MRSA §1319-I, sub-§4-B, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §260, is further amended to read:

4-B. Fee on hazardous materials transported by railroad. Any person who transports more than 25 tons of certain hazardous materials as specified in this subsection at any one time by rail shall register annually with the commissioner. Fees for the transportation of hazardous materials by rail are imposed on the registrant who first transports the materials in the State by rail. Fees for the transportation of hazardous materials are determined by one of the following methods:

A. Fifteen cents per ton of hazardous materials transported by the registrant during the period of registration paid quarterly by the registrant on the basis of records certified to the commissioner; or

B. Twenty-five thousand dollars paid at the time of registration.

The registrant shall select the method of payment at the time of registration. Fees are paid to the department and upon receipt credited to the Maine Hazardous Waste Fund. ~~Any~~ A registrant selecting quarterly payments ~~shall be~~ is automatically subject to the \$25,000 annual registration fee if the fee for any ~~one~~

quarter has not been paid to the Maine Hazardous Waste Fund within 60 days after the fee becomes due. Hazardous materials subject to the requirements of this subsection ~~mean~~ are those substances ~~identified pursuant to the federal Hazardous Materials Transportation Act, Public Law 93-633 listed in 49 Code of Federal Regulations, Part 172.101, Subpart B, 1994,~~ except that, for purposes of this subsection, "hazardous materials" ~~do~~ does not include oil as defined in Title 38, section 542, subsection 6. The registrant shall make available to the commissioner and the commissioner's authorized representatives all documents relating to the hazardous materials transported by the registrant during the period of registration.

Sec. 13. 38 MRSA §1453-A, sub-§2, as amended by PL 1995, c. 333, §3, is further amended by amending the first paragraph to read:

2. Membership; appointment. The commission consists of ~~16~~ 15 members, appointed as follows:

Sec. 14. 38 MRSA §1453-A, sub-§2, ¶A, as enacted by PL 1993, c. 664, §15 and affected by §21, is repealed.

Sec. 15. 38 MRSA §1478, as amended by PL 1993, c. 383, §§39 and 40, is repealed.

Sec. 16. 38 MRSA §1478-A, as enacted by PL 1993, c. 383, §41, is repealed.

Sec. 17. 38 MRSA §1479, as amended by PL 1985, c. 705, §4, is further amended to read:

§1479. Legislative approval of facilities required

~~No~~ A low-level radioactive waste disposal or storage facility may not be established in the State, unless the Legislature has, by Private and Special Act, approved the establishment of that facility ~~pursuant to the provisions of this subchapter.~~ The Legislature shall act expeditiously ~~on any recommendation of the board under section 1478 after a decision by the United States Nuclear Regulatory Commission to approve a facility, but shall may not act until after the conclusion of any judicial review of the recommendation decision and any resulting administrative proceedings.~~

~~Approval under this subchapter constitutes approval under the site location of development laws, but does not replace any other license required by law.~~

Approval under this ~~subchapter~~ section does not replace any other license required by law and is in addition to the voter approval required by ~~subchapter IV section 1493.~~

Sec. 18. 38 MRSA §1480, as enacted by PL 1983, c. 500, §5, is repealed.

Sec. 19. 38 MRSA §1480-A, as enacted by PL 1983, c. 500, §5, is amended to read:

§1480-A. Joint hearings; intervention

The ~~board~~ Department of Human Services or the State Planning Office may ~~hold joint hearings with the United States Nuclear Regulatory Commission and~~ intervene in any federal licensing proceeding to carry out the purpose of this chapter.

Sec. 20. 38 MRSA §1482, sub-§4, as enacted by PL 1985, c. 705, §5, is amended to read:

4. Licensing. ~~Any~~ A low-level radioactive waste disposal facility developed in the State ~~shall must~~ be licensed by the United States Nuclear Regulatory Commission ~~or, in the event the State becomes an agreement state, by the State. The facility must be recommended by the Board of Environmental Protection and approved by the Legislature in accordance with this subchapter section 1479 and approved by the voters in accordance with subchapter IV section 1493.~~

Sec. 21. 38 MRSA §1493, as amended by PL 1987, c. 769, Pt. B, §9, is further amended to read:

§1493. Low-level radioactive waste disposal referendum

~~No~~ A low-level radioactive waste disposal or storage facility may not be constructed or operated ~~within in~~ the State of ~~Maine~~ unless such the construction ~~and or operation are is~~ approved by a majority of the voters voting ~~thereon on~~ the construction or operation in a statewide election. ~~Such~~ The election ~~shall must~~ be held in the manner prescribed by law for holding a statewide election and in accordance with the procedures set forth in Title 35-A, section 4302. The voters ~~shall must~~ be asked to vote on the acceptance or rejection of construction or operation by voting on the following question:

"Do you approve (insert construction or operation) of a low-level radioactive waste (insert disposal or storage) facility as proposed for (insert location)?"

This question ~~shall must~~ be submitted to the legal voters of the State at the next following statewide election after ~~review and issuance of an order recommending permission for construction or operation of the facility by the Board of Environmental Protection pursuant to section 1478, provided that no a decision by the United States Nuclear Regulatory Commission to approve a low-level radioactive waste facility. The construction or operation of any the facility may not commence prior to such the election.~~

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

Effective April 10, 1996.

CHAPTER 643

H.P. 1238 - L.D. 1698

An Act to Make Changes to the Disability Plans Administered by the Maine State Retirement System and to Establish a Process for Further Improvements

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

Whereas, the Maine State Retirement System was directed by Private and Special Law 1995, chapter 38 to devise a proposed methodology and plan that would consolidate the disability plans currently administered by the Maine State Retirement System into a single pooled plan modeled after the plan set out in the Maine Revised Statutes, Title 5, chapter 423, subchapter V, article 3-A and chapter 425, subchapter V, article 3-A, and present that methodology and proposed legislation to the joint standing committee of the Legislature having jurisdiction over labor matters before adjournment of the Second Regular Session of the 117th Legislature; and

Whereas, interested parties to the single pooled plan have had inadequate time to understand and endorse the single plan idea; and

Whereas, the Board of Trustees of the Maine State Retirement System continually strives to make improvements in the administration of its disability plans; and

Whereas, Public Law 1993, chapter 595 directs the Maine State Retirement System to study and analyze the experience of the disability plans amended to meet the requirements of the federal Older Workers Benefit Protection Act and report possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts; and

Whereas, provisions in the law establishing the benefit amount to be received by persons having elected to be covered under the retirement system disability plan applicable to the member as that plan was amended to meet the requirements of the federal Older Workers Benefit Protection Act will expire on June 30, 1996; and

Whereas, the benefit amount to be received by such persons after June 30, 1996 must be established beginning July 1, 1996; 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. 3 MRSA §734, as enacted by PL 1985, c. 507, §1, is amended to read:

§734. Medical board

~~The Medical Board~~ A medical board of the Maine State Retirement System ~~shall be established in section 17106, subsection 1 is the Medical Board~~ medical board of the Maine Legislative Retirement System. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report; in writing to the executive director; its conclusions and recommendations upon all the matters referred to it. ~~If required, The board of trustees may designate other physicians may be employed to report on special~~ provide medical consultation on legislative disability cases.

Sec. 2. 4 MRSA §1234, as amended by PL 1983, c. 863, Pt. B, §§14 and 45, is further amended to read:

§1234. Medical board

~~The Medical Board~~ A medical board of the Maine State Retirement System ~~shall be established in section 17106, subsection 1 is the Medical Board~~ medical board of the Maine Judicial Retirement System. The medical board shall arrange for and pass upon all medical examinations required under this chapter with respect to disability retirements and shall report in writing to the Supreme Judicial Court; its conclusions and recommendations upon all the matters referred to it. ~~If required, The board of trustees may designate other physicians may be employed to report on special~~ provide medical consultation on judicial disability cases.

Sec. 3. 4 MRSA §1353, sub-§2, as amended by PL 1993, c. 595, §1, is further amended to read:

2. Amount. Until July 1, 1996, the amount of a disability retirement allowance is 59% of the member's average final compensation. ~~Any member entitled to this benefit who was serving as a judge on November 30, 1984 may elect to have that member's~~

~~disability benefits calculated in accordance with chapter 29, instead of this subsection. A member who is serving as a judge on October 16, 1992 may elect to be covered under the disability benefit plan applicable to the judge as that plan is amended to meet the requirements of the federal Older Workers Benefit Protection Act. The election must be made by the same procedure provided in Title 5, section 17941 for state employees.~~

Sec. 4. 5 MRSA §17106, as amended by PL 1989, c. 409, §§1, 2 and 12, is further amended to read:

§17106. Medical board

1. Establishment. The board shall designate a medical board or boards each to be composed of 3 physicians not eligible to participate in the retirement system.

2. Other physicians. ~~If required determined~~ advisable by the board, the board may designate other physicians may be employed to report provide medical consultation on special disability cases.

3. Powers and duties. The medical board or other physician designated by the board shall, at the request of the executive director, review the file of each an applicant for disability retirement and as requested shall respond on any or all of the following:

A. Recommend an additional medical review in those instances where there are conflicting medical opinions;

B. Recommend additional medical tests to be performed on an applicant to obtain objective evidence of a permanent disability;

C. Assist the executive director in determining if a disability review of a recipient of a disability allowance is warranted;

D. Inform the executive director and board in writing of its view as to the existence of a disability entitling an applicant to benefits under chapter 423, subchapter V, articles 3 and 3-A, or chapter 425, subchapter V, articles 3 or 3-A; and

E. ~~Make recommendations to~~ Advise the executive director and board to determine if rehabilitation services should be provided to at the request of either whether there are medical indications that a person who is the recipient of a disability retirement benefit under chapter 423, subchapter V, article 3-A or chapter 425, subchapter V, article 3-A should not engage in a rehabilitation program or whether a recipient is too severely disabled to benefit from rehabilitation in accordance with the purposes of chapter 423,

subchapter V, article 3-A or chapter 425, subchapter V, article 3-A.

Sec. 5. 5 MRSA §17902, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§17902. Application

In order to receive a benefit under this article:

1. Written application. ~~The In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director; and.~~

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known.

2. Approval. The written application must be approved by the executive director.

Sec. 6. 5 MRSA §17905, as amended by PL 1993, c. 595, §7, is further amended to read:

§17905. Computation of benefit

~~Until July 1, 1996, when~~ When a member qualified under section 17904 retires, the member is entitled to receive a disability retirement benefit equal to 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

A member who by election remains covered, as to qualification for benefits, under section 17904 as written prior to its amendment by Public Law 1991,

chapter 887, section 4, is, when qualified under that section, entitled to receive a disability retirement benefit equal to 66 2/3% of the member's average final compensation.

Sec. 7. 5 MRSA §17908, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 8. 5 MRSA §17923, as enacted by PL 1989, c. 409, §§8 and 12, is repealed.

Sec. 9. 5 MRSA §17925, sub-§1, ¶A, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

A. The executive director shall ~~submit the application and all pertinent medical and psychological information to the medical board for review as required by section 17106, subsection 3~~ obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known.

Sec. 10. 5 MRSA §17925, sub-§1, ¶B, as enacted by PL 1989, c. 409, §§8 and 12, is repealed.

Sec. 11. 5 MRSA §17926, first ¶, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

Any examinations or tests recommended by the medical board in accordance with section 17106 or required by the executive director under section 17921, subsection 1, paragraph D; ~~section 17923, subsection 2~~; section 17924; section 17929, subsection 2, paragraph B; or section 17933, subsection 3, paragraph A, are governed as follows.

Sec. 12. 5 MRSA §17927, first ¶, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

~~Upon recommendations from the medical board, rehabilitation~~ Rehabilitation services shall must be provided to any person who is the recipient of a disability retirement benefit under this article whenever the executive director determines that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article and that the recipient is suitable for rehabilitation services. When necessary, determination of suitability must include consultation

with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services shall must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified.

Sec. 13. 5 MRSA §17927, sub-§4, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

4. Decline of rehabilitation. ~~If, after recommendation by the medical board,~~ a person declines use of the rehabilitation services offered or refuses to agree to a rehabilitation plan approved by the executive director, the disability retirement benefit payments ~~shall~~ cease at the end of the month following the decline or refusal.

A. The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

B. The decision ~~shall be~~ is subject to appeal under section 17451.

C. If the person appeals the executive director's decision, the disability retirement allowance ~~shall~~ may not be discontinued until all appeals have been exhausted.

Sec. 14. 5 MRSA §17928, as amended by PL 1993, c. 595, §8, is further amended to read:

§17928. Computation of benefit

~~Until July 1, 1996, when~~ When a member qualified under section 17924 retires, after approval for disability retirement by the executive director in accordance with section 17925, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit

Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

Sec. 15. 5 MRSA §17929, sub-§2, ¶B, as enacted by PL 1989, c. 409, §§8 and 12, is amended to read:

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 17926, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for a recommendation medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity ~~which~~ that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 17806. The disability retirement benefit ~~shall continue~~ continues if the person can effectively demonstrate to the executive director that the person is actively seeking work.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit ~~shall be~~ is discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article ~~shall~~ cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ~~shall cease~~ ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4)

(a) The decision ~~shall be~~ is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance ~~shall~~

may not be discontinued until all appeals have been exhausted.

Sec. 16. 5 MRSA §17941, as enacted by PL 1991, c. 887, §10, is repealed.

Sec. 17. 5 MRSA §18502, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

§18502. Application

In order to receive a benefit under this article:

1. Written application. The In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director; and,

A. The executive director shall obtain medical consultation on each applicant for disability retirement benefits in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known.

2. Approval. The written application must be approved by the executive director.

Sec. 18. 5 MRSA §18505, as amended by PL 1993, c. 595, §11, is further amended to read:

§18505. Computation of benefit

~~Until July 1, 1996, when~~ When a member qualified under section 18504 retires, the member is entitled to receive a disability retirement benefit equal to 59% of the member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

Sec. 19. 5 MRSA §18508, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 20. 5 MRSA §18523, as enacted by PL 1989, c. 409, §§11 and 12, is repealed.

Sec. 21. 5 MRSA §18525, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

§18525. Application

~~In order to receive a benefit under this article:~~

1. Written application. ~~The In order to receive a benefit under this article, the person must apply in writing to the executive director in the format specified by the executive director.~~

A. ~~The executive director shall submit the application and all pertinent medical and psychological information to the medical board for review as required by section 17106, subsection 3 obtain medical consultation on each applicant for disability in accordance with related rules established by the board, which must include provisions indicating when a case must be reviewed by a medical board and when alternative means of medical consultation are acceptable. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter II-A. Whether provided by the medical board or by an alternative means, medical consultation obtained by the executive director must be objective and be provided by a physician or physicians qualified to review the case by specialty or experience and to whom the applicant is not known.~~

B. ~~As required by section 17106, the medical board shall make a recommendation as to whether or not the member may be provided vocational rehabilitation services.~~

2. Workers' compensation. ~~If the incapacity upon which the application is based is a result of an injury or accident received in the line of duty, the application must include proof that the member has made application for benefits under the workers' compensation laws.~~

3. Social security. ~~If the employment for which creditable service with the employer is allowed was also covered under the United States Social Security Act, the application must include proof that the member has made application for benefits under this Act; and.~~

4. Approval. ~~The written application shall must be approved by the executive director upon finding that the member has met the requirements of section 18524.~~

Sec. 22. 5 MRSA §18525, sub-§1, ¶B, as enacted by PL 1989, c. 409, §§11 and 12, is repealed.

Sec. 23. 5 MRSA §18526, first ¶, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

Any examinations or tests recommended by the medical board in accordance with section 17106 or required by the executive director under section 18521, subsection 1, paragraph D; ~~section 18523, subsection 2~~; section 18524; section 18529, subsection 2, paragraph B; or section 18533, subsection 3, paragraph A, are governed as follows.

Sec. 24. 5 MRSA §18527, first ¶, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

~~Upon recommendations from the medical board, rehabilitation~~ Rehabilitation services ~~shall must~~ be provided to any person who is the recipient of a disability retirement benefit under this article ~~if the executive director determines that rehabilitation is feasible, that rehabilitation is consistent with the purposes of this article and that the recipient is suitable for rehabilitation services. When necessary, determination of suitability must include consultation with the medical board to determine any medical indications that the recipient should not engage in a rehabilitation program or to identify a recipient too severely disabled to benefit from rehabilitation services in accordance with the purposes of this article. Services shall must be provided by private and public rehabilitation counselors, government agencies and others approved by the executive director as qualified to provide rehabilitation services. The executive director shall consider a rehabilitation counselor's rate of successfully placing rehabilitated employees in jobs relative to the placement rates of other counselors in the State as fundamental in deciding whether to approve the counselor as qualified.~~

Sec. 25. 5 MRSA §18527, sub-§4, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

4. Decline of rehabilitation. ~~If, after recommendation by the medical board,~~ a person declines use of the rehabilitation services offered or refuses to agree to a rehabilitation plan approved by the executive director, the disability retirement benefit payments ~~shall~~ cease at the end of the month following the decline or refusal.

A. The executive director shall notify the person in writing of the decision to discontinue the disability retirement benefit.

B. The decision ~~shall be~~ is subject to appeal under section 17451.

C. If the person appeals the executive director's decision, the disability retirement allowance ~~shall~~ may not be discontinued until all appeals have been exhausted.

Sec. 26. 5 MRSA §18528, as amended by PL 1993, c. 595, §12, is further amended to read:

§18528. Computation of benefit

~~Until July 1, 1996, when~~ When a member qualified under section 18524 retires, after approval for disability retirement by the executive director in accordance with section 18525, the member is entitled to receive a disability retirement benefit equal to 59% of that member's average final compensation. The 59% level must be reviewed for cost-neutral comparability as a part of the actuarial investigation provided under section 17107, subsection 2, paragraph E, beginning with the investigation made January 1, 1997 and every 6 years thereafter. The review that takes place every 6 years must compare actual experience under the disability plans with actuarial assumptions regarding election and costs of benefits under the new options elected and identify possible options for compliance with the federal Older Workers Benefit Protection Act that protect benefits for employees without additional cost to the State and participating local districts.

Sec. 27. 5 MRSA §18529, sub-§2, ¶B, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

B. The executive director may require, once each year, that the person undergo examinations or tests, conducted in accordance with section 18526, to determine the person's disability. The executive director may refer the records documenting the results of the examinations or tests and the person's file to the medical board for a ~~recommendation~~ medical consultation regarding rehabilitation in accordance with section 17106, subsection 3, paragraph E.

(1) After the disability has continued for 2 years, the disability must render the person unable to engage in any substantially gainful activity ~~which that~~ that is consistent with the person's training, education or experience and average final compensation adjusted by the same percentage adjustment as has been received under section 18407. The disability retirement benefit ~~shall continue~~ continues if the person can effectively demonstrate to the executive director that the person is actively seeking work.

(2) If the person refuses to submit to the examinations or tests under this paragraph, the disability retirement benefit ~~shall be~~ is

discontinued until that person withdraws the refusal.

(3) If the person's refusal under subparagraph (2) continues for one year, all rights to any further benefits under this article ~~shall~~ cease.

(4) If it is determined, on the basis of the examinations or tests under this paragraph, that the disability of a person no longer exists, the payment of the disability retirement benefit ~~shall cease~~ ceases.

(5) The executive director shall notify the person in writing of the decision to discontinue the disability retirement allowance under subparagraph (2) or (4).

(a) The decision ~~shall be~~ is subject to appeal under section 17451.

(b) If the person appeals the executive director's decision, the disability retirement allowance ~~shall~~ may not be discontinued until all appeals have been exhausted.

Sec. 28. 5 MRSA §18541, as enacted by PL 1991, c. 887, §18, is repealed.

Sec. 29. Committee to Study Disability Retirement. The Committee to Study Disability Retirement, referred to in this section as the "study committee," is established to examine the single pooled disability plan concept and other changes to the disability plans administered by the Maine State Retirement System.

1. Membership. The study committee consists of 9 members: one member from the Maine State Employees Association; one member from the Maine Education Association; one member of the American Federation of State, County and Municipal Employees; one member of the American Federation of Teachers; one member of the Maine State Troopers Association; one member from the Maine School Management Association; one member from the Maine State Retirement System; and 2 members appointed by the Governor to represent the interests of the State with respect to disability plans for state employees and teachers.

2. Convening; chair. When all the members have been appointed, the Chair of the Legislative Council shall convene the first meeting. The members shall select a chair from among the membership.

3. Compensation. Members are not entitled to compensation.

4. Retirement system; support. The Maine State Retirement System is responsible for scheduling meetings, obtaining actuarial information when necessary, providing general staff support, drafting proposed legislation and distributing the report.

5. Charge; report. The study committee shall issue a report to the joint standing committee of the Legislature having jurisdiction over retirement matters by February 15, 1997, including appropriate draft legislation. Following receipt of the study committee's report, the legislative committee may introduce legislation to the First Regular Session of the 118th Legislature. The study committee shall consider, without limitation, the following issues:

A. A methodology and plan that would consolidate the disability plans currently administered by the Maine State Retirement System into a single pooled plan modeled after the plan set out in the Maine Revised Statutes, Title 5, chapter 423, subchapter V, article 3-A;

B. Whether or not the disability plan or plans should retain limits on the amount recipients can earn while receiving disability benefits;

C. Whether or not the plan should retain the "actively seeking work" exemption from discontinuance of benefits;

D. Whether or not payment of benefits should continue when a recipient appeals beyond the administrative appeals process a decision to discontinue the recipient's benefits;

E. Whether or not provisions should be added to the disability plans restricting payment of benefits for misconduct-related disability or during incarceration;

F. Whether or not provisions should be added to the disability plan or plans that distinguish between recipients who become disabled in the line of duty and those who do not;

G. Whether or not an applicant for a disability retirement benefit based on a condition that pre-existed membership in the Maine State Retirement System must have 5 years of continuous service immediately prior to application for a benefit or may have 5 years of continuous service anytime after the condition arises and before application; and

H. Whether any of the recommendations of the study committee will affect the unfunded liability of the Maine State Retirement System.

The proposed legislation must address all of the issues set out in paragraphs A to F so that the legislative

committee and the Legislature are presented the full range of views on the policy matters involved in these issues. If there is not agreement among study committee members, on any of the issues, members advocating particular policy positions on all sides of the issue or issues shall provide the legislative committee with an explanation of their policy positions and the reasons that are the basis for their positions.

6. Participating local districts. With respect to the interest of participating local districts in the issues in subsection 5 and in such related issues as may impact participating local districts, the Participating Local District Advisory Committee established under the Maine Revised Statutes, Title 5, section 18802 shall serve as the study committee for those participating local districts in the consolidated retirement plan for participating local districts. The Participating Local District Advisory Committee shall report to the joint standing committee of the Legislature having jurisdiction over retirement matters at the same time and in the same manner as provided in subsection 5. The Maine State Retirement System has the same staff support role with this study committee as with the Committee to Study Disability Retirement. The Participating Local District Advisory Committee may not take up these issues until after July 1, 1996. The Maine State Retirement System shall also inform those participating local districts that are not in the consolidated retirement plan and that have members who are then receiving disability benefits or who continue to be covered under retirement system disability programs by virtue of continuing to be contributing members of the retirement system of the issues under discussion that would affect those participating local districts.

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

Effective April 10, 1996.

CHAPTER 644

H.P. 1266 - L.D. 1741

An Act to Enable the Loring Development Authority to Establish the Loring Job Increment Financing Fund and to Impose Term Limits on Trustees of the Authority

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

Sec. 1. 5 MRSA §13080-B, sub-§7 is enacted to read:

7. Term limits. A person may not serve more than 2 consecutive 4-year terms as a trustee.

Sec. 2. 5 MRSA c. 383, sub-c. III, art. 1-C is enacted to read:

ARTICLE 1-C

LORING JOB INCREMENT FINANCING FUND

§13080-O. Loring Job Increment Financing Fund

1. Short title. This article may be known and cited as the Loring Job Increment Financing Program Act.

2. Establishment of fund. The Loring Job Increment Financing Fund is established in accordance with this article.

§13080-P. Definitions

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

1. Affiliated business. "Affiliated business" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

B. Fifty percent of the stock of each business or a controlling interest in each business is directly or indirectly owned by a common owner or owners.

2. Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses.

3. Assessor. "Assessor" means the State Tax Assessor.

4. Authority. "Authority" means the Loring Development Authority of Maine.

5. Base area. "Base area" means the area within the geographic boundaries of Loring Air Force Base, as defined in section 13080-A.

6. Base level of employment. "Base level of employment" means the total employment in the base area as of July 1, 1996.

7. Employment tax increment. "Employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area, adjusted pursuant to section 13080-R.

8. Fund. "Fund" means the Loring Job Increment Financing Fund.

9. Gross employment tax increment. "Gross employment tax increment" means that level of state income withholding taxes attributed to employees employed within the base area that is greater than the base level of employment.

10. Successor business. "Successor business" means a business that has acquired the organization, trade or business, or 50% or more of the assets of the organization, trade or business, of another taxpayer.

§13080-Q. Payments allowed

1. Fund to receive income tax revenues from job creation. Subject to the provisions of subsection 2 and section 13080-S, the fund must receive annually from the State 50% of the employment tax increment.

2. Limitations. Payments to the fund pursuant to this section are subject to the following limitations.

A. Revenues received under this section must be used solely to fund the costs of municipal services, including, but not limited to, water, sewer, fire protection, police protection, sanitation services and the maintenance of grounds and roads.

B. To the extent that revenues received by the fund are not expended for current costs of municipal services, the fund must retain the revenues to defray future costs of providing the municipal services.

C. State income withholding taxes derived from employment at a business within the base area are not eligible for use in the calculation of a payment to the fund if the business is eligible during the current year to receive a payment under any other program authorized by Title 36, Part 8 that is based on the amount of employer withholding taxes and the business has made or makes an election to receive that payment.

D. Payments made to the fund may not be made for tax years beginning on or after July 1, 2016.

§13080-R. Calculation of employment tax increment

The assessor shall calculate the employment tax increment as follows.

1. Adjustment for shifted revenues. The assessor shall subtract from the gross employment tax increment any revenues attributed to employment shifted from affiliated businesses to a business located within the base area. This adjustment is calculated by comparing the current year's income withholding tax

revenues for businesses that are members of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for any group exceeds the growth of income withholding tax revenue generated by the group's member business within the base area, the portion of the gross employment tax increment attributable to that business does not have to be adjusted to remove employment shifted from affiliated businesses. If the growth in income withholding tax revenue for any group is less than the growth in income withholding tax revenue for that group's member business within the base area, the difference is presumed to have been shifted from affiliated businesses to the base area and the portion of the gross employment tax increment attributable to that business is reduced by the difference.

2. Adjustment based on percentage change in withholding taxes for all business in State. The assessor shall adjust the calculation of the employment tax increment by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld within the base area by the percentage change in withholding taxes for all business within the State as a whole.

3. Adjustment for successor business. The assessor shall further adjust the calculation of the employment tax increment, for any business that is a successor business, by subtracting from the gross employment tax increment any income tax withholding revenues attributable to a business acquired by the successor business after July 1, 1994.

§13080-S. Information to be provided to the assessor; approval of payment

1. Certification by authority. The authority shall certify annually to the assessor by September 30th of each year, beginning in 1997, the following information:

A. Employment, payroll and state withholding data necessary to calculate the base level of employment;

B. The total number of employees added during the previous year within the base area above the base level of employment, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate payment to the fund;

C. A listing of all employers within the base area that pay withholding taxes, the locations of those employers and the number of employees at each location; and

D. A listing of all affiliated businesses and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business within the base area.

2. Approval of payment. Upon receipt of the information required by this section, the assessor shall review the information in a timely fashion. If the assessor determines that the requirements of this article are satisfied, the assessor shall approve payment to the fund.

3. Deposit and payment of revenue. On or before June 30th of each year, if the approval of the assessor has been issued pursuant to subsection 2, the Commissioner of Administrative and Financial Services shall deposit an amount equal to 50% of the employment tax increment for the preceding year into a contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay that amount to the fund.

§13080-T. Program administration

The assessor shall administer the Loring Job Increment Financing Program. The assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program. The assessor may also by rule establish reasonable fees, including fees payable to the assessor for obligations under this article. Any fees collected pursuant to this article must be deposited into a special revenue account administered by the assessor and these fees may be used only to defray the actual costs of administering the Loring Job Increment Financing Program.

Sec. 3. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 5, section 13080-B, subsection 7 applies retroactively to November 1, 1993.

See title page for effective date.

CHAPTER 645

H.P. 1195 - L.D. 1639

An Act to Amend Certain Motor Vehicle Laws Including Those Affecting the University of Maine System Plate and the Certificate of Lien

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

Whereas, corrections of omissions in certain motor vehicle laws are important to the enforcement of those laws; and

Whereas, planning and preparation for a new general issue of registration plates is an enormous task; 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. 10 MRSA §1661-A, as amended by PL 1995, c. 65, Pt. A, §23 and affected by §153 and Pt. C, §15, is further 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-A, section 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~~ S, restricted to special equipment, and there is no nonhandicapped adult in the motor vehicle.

Sec. A-2. 29-A MRSA §456, as affected by PL 1995, c. 65, Pt. A, §153 and Pt. C, §15 and as amended by Pt. C, §2, is further amended to read:

§456. University of Maine System; special registration plates

1. University of Maine System plate. The Secretary of State, upon receiving an application and evidence of payment of the excise tax required by Title 36, section 1482, the registration fee required by section 501 and the administrative fee and voluntary contribution provided for in subsection 2, shall issue a registration certificate and a set of University of Maine System registration plates to be used in lieu of regular registration plates. These plates must bear identification numbers and letters. ~~The number of characters appearing on a plate may not exceed 7.~~

2. Administrative fee and contribution to University of Maine System Scholarship Fund. University of Maine System special registration plates are not required for registration of a motor vehicle. A

person may contribute to the University of Maine System Scholarship Fund by applying for the special registration plates and submitting, in addition to the regular motor vehicle registration fee, a sum of \$20 credited as follows:

A. ~~Ten~~ Fourteen dollars to the University of Maine System Scholarship Fund established in Title 20-A, section 11631; and

B. ~~Ten~~ Six dollars to the Highway Fund for administrative and production costs.

3. Design. The Secretary of State shall determine a design for the special University of Maine System plates. If the design accommodates the use of numbers and letters as provided in section 453, the Secretary of State shall issue upon request University of Maine System plates that are also vanity plates. University of Maine System vanity plates are issued in accordance with the provisions of this section and section 453.

5. Renewal fee. In addition to the regular motor vehicle registration fee prescribed by law, the annual renewal contribution for University of Maine System registration plates is \$15, which must be deposited with the Treasurer of State and credited as follows:

A. Fourteen dollars to the University of Maine System Scholarship Fund established in Title 20-A, section 11631; and

B. One dollar to the Highway Fund for administrative and production costs.

6. Reimbursement for production and issuance costs. The Treasurer of State shall transfer annually from the University of Maine System Scholarship Fund to the Highway Fund \$6 for each initial set of University of Maine System registration plates issued and \$1 for each renewal of University of Maine System registration plates. This transfer is to reimburse the Secretary of State for costs associated with production and issuance of plates.

Sec. A-3. 29-A MRSA §457, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. A-4. 29-A MRSA §521, sub-§3, ¶B, as repealed and replaced by PL 1995, c. 482, Pt. A, §4, is amended to read:

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 along with the expiration date that~~ 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.

Sec. A-5. 29-A MRSA §521, sub-§6, ¶B, as repealed and replaced by PL 1995, c. 482, Pt. A, §4, is amended to read:

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.~~

Sec. A-6. 29-A MRSA §651, sub-§5, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

5. Certificate of lien. The Secretary of State shall ~~issue a certificate of lien~~ assign a lien to the first named lienholder, when a certificate of title or a certificate of salvage names a lienholder.

Sec. A-7. 29-A MRSA §651-A is enacted to read:

§651-A. Require certificate of lien; certificate of title; certificate of salvage

Notwithstanding any other provision of this Title, the Secretary of State may require a certificate of lien, certificate of title or certificate of salvage when necessary to perfect a lien.

Sec. A-8. 29-A MRSA §657, sub-§§2 and 7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

2. Assignment of title. The Secretary of State, upon receipt of a properly assigned certificate of title or certificate of salvage with an application for a new certificate, the required fee and any other documents required by law, shall issue a new certificate of title or certificate of salvage in the name of the transferee as owner and mail that certificate to the owner. If a lienholder is named on the certificate of title or certificate of salvage, the Secretary of State must mail a certificate of lien, certificate of title or certificate of salvage to the first named lienholder.

7. Mailing of certificate. The Secretary of State shall mail a certificate of title or certificate of salvage to the owner named on the certificate. The

Secretary of State shall also mail a certificate of lien, certificate of title or certificate of salvage to the first lienholder named on the certificate. ~~The certificate of lien must contain the same information required to be on the certificate of title by section 658, subsection 1, and a place for the release of each lien.~~

Sec. A-9. 29-A MRSA §664, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Unreleased security interest. If a certificate of title shows an unreleased security interest, a dealer may not transfer the vehicle unless the dealer possesses a properly released certificate of lien ~~or a certificate is forthcoming from a lienholder.~~

Sec. A-10. 29-A MRSA §665, 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 individual awarded the vehicle shall apply for a certificate of title or certificate of salvage and, if there was an unsatisfied lien at the time of the divorce decree, shall state the lien on the application. Upon receipt of the application, the required fee, the certificate of title or salvage and proof of the award of the vehicle in a divorce, the Secretary of State shall issue a title in the name of the individual awarded the vehicle and, if there is a lien on the vehicle, shall issue a certificate of lien, certificate of title or certificate of salvage to the lienholder.

Sec. A-11. 29-A MRSA §667, sub-§5, ¶A, as amended by PL 1995, c. 482, Pt. A, §14, is repealed.

Sec. A-12. 29-A MRSA §667, sub-§5, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. The legend "rebuilt salvage" must appear on a certificate of title for a rebuilt salvage vehicle if:

- (1) Two or more vehicles with different frames are joined;
- (2) A salvage vehicle has 5 or more component parts replaced; ~~or~~
- (3) A certificate of title with the legend "rebuilt salvage" issued by the Secretary of State or by any other jurisdiction 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-13. 29-A MRSA §701, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. New certificate. Upon receipt of the certificate, the application and fee, the Secretary of State shall issue a new certificate containing the name and address of the new lienholders and mail the certificate of title to the owner. The Secretary of State shall also mail a certificate of lien, certificate of title or certificate of salvage to the first lienholder.

Sec. A-14. 29-A MRSA §1401, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and as affected by Pt. B, §5, is amended to read:

3. Signature. A licensee's ~~usual~~ signature must appear in the place designated. The signature must be the same as the name displayed on the license. A license is not valid until ~~endorsed~~ signed.

Sec. A-15. 29-A MRSA §1611, sub-§5, as amended by PL 1995, c. 482, Pt. B, §20 and affected by §22, is further 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. A-16. 29-A MRSA §1612, 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 may not issue a dealer, transporter, loaner, motorcycle dealer or trailer dealer license or registration plates under chapter 9, subchapter I, except to equipment dealers or dealers who are only licensed to sell trailers with a gross vehicle weight rating of 3,000 pounds or less, and which do not request dealer registration plates in conjunction with the license, until the applicant has procured and filed with the Secretary of State a certificate showing that the applicant is covered by an automobile bodily injury and property damage liability insurance policy providing coverage as set forth in this Title with respect to the plates issued, approved by the Superintendent of Insurance, insuring against any legal liability in accordance with the terms of that policy for personal injury or death of any one person in the sum of ~~\$20,000~~ \$100,000 and for any number of persons in the sum of ~~\$40,000~~ \$300,000 and against property damage in the sum of ~~\$10,000~~ \$300,000 when injury, death or damage may result from or have been caused by the operation of any vehicle bearing such

registration plates. In lieu of ~~such~~ that insurance, the applicant may file with the Secretary of State a bond or bonds issued by a surety company authorized to do business in the State in the amount of at least ~~\$20,000~~ \$100,000 on account of injury to or death of any one person and subject to such limits as respects injury to or death of one person; of at least ~~\$40,000~~ \$300,000 on account of any one accident resulting in injury to or death of more than one person; and of at least ~~\$10,000~~ \$300,000 for damage to property of others.

Sec. A-17. Application. The changes in minimum insurance coverage for dealers and transporters enacted by amending the Maine Revised Statutes, Title 29-A, section 1612 apply to registrations for the year 1997 and subsequent years.

Sec. A-18. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 29-A, section 456 takes effect on July 1, 1996. Those sections of this Part that amend Title 29-A, sections 651, 657 and 664 and that section that repeals Title 29-A, section 667, subsection 5, paragraph A takes effect on October 1, 1996.

PART B

Sec. B-1. 5 MRSA §88-A, sub-§1, as amended by PL 1993, c. 658, §1, is further amended to read:

1. Application. Any person ~~at~~ 15 years of age or over who is a Maine resident or a nonresident temporarily domiciled in the State with a mailing address in the State may apply for an official state nondriver identification card. The application must be on a form provided by the Secretary of State and include any supporting documents and information required by the Secretary of State.

A. The application form must include, directly above the signature line, the following notice to the applicant: "I understand that knowingly supplying false information on this form is a Class D crime under Title 17-A, punishable by confinement of up to 364 days or by monetary fine of up to \$1,000, or both."

Sec. B-2. 5 MRSA §88-A, sub-§2, as amended by PL 1995, c. 65, Pt. A, §7 and affected by §153 and Pt. C, §15, is further 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-A, chapter 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 ~~at~~ 15

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. B-3. 29-A MRSA c. 3, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

MUNICIPAL AGENTS, RENEWAL AGENTS AND REGISTRATION AGENTS

Sec. B-4. 29-A MRSA §101, sub-§61-A is enacted to read:

61-A. Registration agent. "Registration agent" means a nongovernmental entity authorized by the Secretary of State to conduct registration transactions on the bureau's behalf.

Sec. B-5. 29-A MRSA §204 is enacted to read:

§204. Registration agents

1. Appointment; scope of authority. The Secretary of State may appoint registration agents to issue original registrations, to renew registrations and to transfer registrations from one vehicle to another. The Secretary of State may limit the agent's authority to the issuance of renewals or to the issuance of renewals and transfers only. A registration agent may issue, renew or transfer a registration only when one of the following conditions is met:

- A. The registration does not require payment of excise tax; or
- B. Excise tax has been paid in accordance with Title 36, chapter 111.

2. Training. The Secretary of State shall provide necessary training for registration agents. A registration agent appointed pursuant to this section shall complete a training program or programs required by the Secretary of State.

3. Duration of appointment. An appointment for a registration agent remains in effect until revoked by the Secretary of State or voluntarily surrendered. An appointment may be revoked by the Secretary of State for cause.

4. Rules. The Secretary of State may adopt rules to implement the provisions of this section. The rules must include requirements for training of registration agents, for accounting standards and inventory control and for the electronic transmission of data and funds between registration agents and the bureau. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-6. 29-A MRSA §§255 and 256 are enacted to read:

§255. Confidentiality for public safety

1. Confidential records. Notwithstanding any other provision of law, the Secretary of State or a designee of the Secretary of State may hold records relating to a person's motor vehicle registration and driver's license confidential for a specified period of time when the following conditions are met:

A. The Secretary of State has received a written request along with a copy of a protection order that has been issued under Title 5, section 4654 or 4655; Title 15, section 321; Title 19, section 765 or 766; or Title 22, chapter 1071 to protect the requestor from harassment or abuse; or

B. The Secretary of State or a designee of the Secretary of State has:

- (1) Received a written request showing cause that a person is in danger of serious bodily injury or death by another person and that the endangered person is relocating for the specific purpose of avoiding harm;
- (2) Consulted with the Commissioner of Public Safety or a designee of the commissioner and the Attorney General or a designee of the Attorney General; and
- (3) Determined that holding the endangered person's driver's license and motor vehicle registration records as confidential is in the best interest of public safety.

2. Release of records. The Secretary of State may release information held in confidence pursuant to subsection 1 to law enforcement officers, insurance companies and municipal, county, state or federal agencies that demonstrate a necessity for the information. The Secretary of State shall prescribe the conditions under which the information may be used and the person receiving the information may only use the information as prescribed.

3. Liability for release. Neither failure of the Secretary of State or an employee of the Secretary of

State to perform the requirements of this section nor compliance with it subjects the Secretary of State or employees of the Secretary of State to liability in a civil action.

4. Rules. The Secretary of State may, in consultation with the Commissioner of Public Safety and the Attorney General, adopt rules necessary for the implementation of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§256. Federal Driver's Privacy Protection Act of 1994

The Secretary of State shall comply with the provisions of Title 18, United States Code, Chapter 123 in disclosing records.

Sec. B-7. 29-A MRSA §401, sub-§2, as amended by PL 1995, c. 482, Pt. B, §3, is further amended to read:

2. Content of application. An application must contain information requested by the Secretary of State, including legal name, residence and address of the registrant, current mileage of the a motor vehicle, a brief description of the vehicle, the maker, the vehicle identification number, the year of manufacture, and the type of motor fuel and the actual gross weight of, for trucks, truck-tractors and special mobile equipment, the gross weight. The An initial application for registration must be signed by the registered owner or the registered owner's legal representative. The Secretary of State shall keep initial applications on file until that registration is terminated.

Sec. B-8. 29-A MRSA §411 is enacted to read:

§411. Multi-year fleet registration

Notwithstanding any other provision of law, the Secretary of State may authorize registrants with 100 or more motor vehicle registrations to participate in a multi-year fleet registration program. Registrants shall elect a common expiration date for all vehicles placed in the multi-year fleet registration program. With permission of the Secretary of State, a registrant may establish more than one fleet.

Motor vehicles registered pursuant to a multi-year fleet registration program may be issued registration credentials for a period not to exceed 5 years. The Secretary of State shall establish a method for the annual verification and collection of appropriate registration fees and excise taxes. When municipal excise tax is required under Title 36, chapter 111, the person registering the motor vehicles shall pay the excise tax directly to the appropriate municipality.

The Secretary of State may adopt rules for the implementation of a multi-year fleet registration program. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. B-9. 29-A MRSA §512, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended by adding a new 2nd paragraph to read:

Upon receiving a request for a registration extension from a registrant with a semitrailer properly registered in accordance with this section, the Secretary of State shall issue a new registration plate and registration document. That portion of a registration fee paid in accordance with this section and representing the unexpired period on that registration must be credited toward the fees required for the new registration.

Sec. B-10. 29-A MRSA §523, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Disabled veterans; special free license plates. The Secretary of State on application and upon evidence of payment of the excise tax required by Title 36, section 1482, shall issue a registration certificate and set of special designating plates to be used in lieu of regular registration plates to any 100% disabled veteran when that application is accompanied by certification from the United States Veterans Administration or any branch of the United States Armed Forces as to the veteran's permanent disability and receipt of 100% service-connected benefits and that the veteran is permanently confined to a wheelchair or restricted to the use of crutches or braces or otherwise handicapped in such a way that mobility is seriously restricted. A handicap disabled placard is issued in addition to the disabled veteran registration plate at no fee.

These special designating plates must bear the words "Disabled Veteran," which indicate that the vehicle is owned by a disabled veteran.

Sec. B-11. 29-A MRSA §524, sub-§4, as enacted by PL 1995, c. 190, §1, is amended 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 or the surviving spouse of 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. B-12. 29-A MRSA §525, sub-§§11 and 12, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

11. Cooperation. The State Tax Assessor, the Department of Public Safety and the Secretary of State shall cooperate in the issuance of decals, licenses and permits, the processing of tax returns, enforcement of this section and to ensure that timely information is readily available to all enforcement personnel of the status of those in noncompliance with the fuel use tax laws, intrastate and interstate for-hire operating

authority permit requirements and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may delegate to the Secretary of State responsibility for the processing of motor carrier fuel tax returns, motor carrier fuel tax collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

12. Funds. All fees, fines, fuel tax revenue and forfeitures accrue to the Highway Fund.

Sec. B-13. 29-A MRSA §954, sub-§5, as amended by PL 1995, c. 309, §26 and affected by §29, is further amended to read:

5. Transporter. A garage owner, body shop, finance company, bank, motor vehicle auction business, recycler or repossession company licensed by the Office of Consumer Credit Regulation may be issued transporter plates and a license to transport a vehicle owned by or in the custody of that owner or business.

A. The holder may use this plate only if the vehicle is accompanied by the owner or the owner's employee.

B. A transporter plate may not be:

- (1) Used in lieu of registration plates;
- (2) Loaned to another;
- (3) Used for personal reasons; or
- (4) Used on a towing vehicle.

Sec. B-14. 29-A MRSA §1404, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Prior convictions. A person convicted of operating under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, as defined in section 2453, subsection 2, within ~~6~~ 10 years of the date the license is issued, reissued or returned after a period of suspension bears a coded notation of that fact.

Sec. B-15. 29-A MRSA §1407, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1407. Change of location or status

When a person, after applying for or receiving a driver's license or registration, moves from the address named in the application or on the license or registration issued or changes name, that person shall, within 10 days, notify the Secretary of State, in writing or by

other means approved by the Secretary of State, of the old and new addresses or former and new names and of the number of the licenses and registrations held.

Sec. B-16. 29-A MRSA §2104, sub-§4 is enacted to read:

4. Alterations to registration plates. Except when a greater penalty is applicable, a person commits a traffic infraction if that person adds or attaches to a registration plate a decal, symbol, slogan, mark, letter or number not authorized by law or by the Secretary of State.

Sec. B-17. 29-A MRSA §2303, sub-§1, ¶G, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

G. Has not received an OUI conviction, as defined in section 2401, subsection 9, within the preceding ~~6-year~~ 10-year period.

Sec. B-18. 29-A MRSA §2411, sub-§5, ¶D, as repealed and replaced by PL 1995, c. 368, Pt. AAA, §8, is amended to read:

D. For a person having 3 or more previous 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;

Sec. B-19. 29-A MRSA §2412-A, sub-§3, as enacted by PL 1995, c. 368, Pt. AAA, §12, is amended to read:

3. Minimum mandatory sentences for certain suspension. If the suspension was for OUI or an OUI offense, 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.

Sec. B-20. 29-A MRSA §2455, sub-§1, ¶¶B and D, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

B. The person had not attained the legal drinking age and was operating a motor vehicle ~~while having .02% or more by weight of~~ with any amount of alcohol in that person's the blood;

D. There was probable cause to believe that the person had not attained the legal drinking age and was operating a motor vehicle ~~while having .02% or more by weight~~ with any amount of alcohol in that person's the blood and failed to comply with the duty to submit to and complete a test to determine blood-alcohol level.

Sec. B-21. 29-A MRSA §2521, sub-§6, as amended by PL 1995, c. 368, Pt. AAA, §30, is further amended to read:

6. Period of suspension. Except when a longer period of suspension is otherwise provided by law, the

suspension is for a period of ~~180~~ 275 days for the first refusal, 18 months for a 2nd refusal, 4 years for a 3rd refusal and 6 years for a 4th refusal.

Sec. B-22. 29-A MRSA §2551, sub-§1, ¶J, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

J. Failure to report an accident involving property damage, in violation of section ~~2253~~, 2254 or 2255;

Sec. B-23. 36 MRSA §1482, sub-§1, ¶C, as amended by PL 1995, c. 440, §4 and affected by §5, 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 pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

Sec. B-24. Effective date. Those sections of this Part that enact the Maine Revised Statutes, Title 29-A, section 101, subsection 61-A; and sections 204, 411 and 2104, subsection 4; and that amend Title 5, section 88-A, subsections 1 and 2 and Title 29-A, sections 401, 523, 525, 1404 and 2521; and that amend Title 36, section 1482 take effect on July 1, 1996. Those sections of this Part that enact Title 29-A, sections 255 and 256 take effect on October 1, 1996.

PART C

Sec. C-1. 29-A MRSA §451, sub-§1-A is enacted to read:

1-A. New general issue. The Secretary of State shall provide for a new general issue of registration plates and shall begin issuing the new plates no later than July 1, 1999. The Secretary of State shall provide for the issuance of new plates before December 31, 2000 to all vehicles required to obtain new plates.

Sec. C-2. 29-A MRSA §451, sub-§4, ¶D, as amended by PL 1995, c. 65, Pt. A, §86 and affected by §153 and Pt. C, §15, is further amended to read:

D. A new registration plate must have:

- (1) A white background;
- (2) Identification numbers and letters distinctly navy blue; and
- (3) An illustration of a lobster distinctly lobster red.

This paragraph is repealed on July 1, 1999.

Sec. C-3. 29-A MRSA §451, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Plates to be manufactured at State Prison. The Secretary of State or the duly designated official in charge of vehicle registration shall purchase and cause to be installed at the State Prison the necessary equipment and materials for the production of all vehicle registration plates used in the State. Only plates that can not be produced at the prison and plates for which anticipated demand is below a minimum number determined by the Secretary of State may be purchased for state use.

The Warden of the State Prison ~~shall have~~ has charge of operations at the State Prison relative to the

manufacture of all plates made for the State. The Warden of the State Prison, with the consent of the Secretary of State, may employ for limited periods of time a supervisor for the purpose of instructing inmates in the operation of making such plates.

Sec. C-4. 29-A MRSA §457, sub-§7, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

7. Registration fee. The fee for registration of an antique auto, horseless carriage or antique motorcycle is ~~\$12~~ \$13. The fee for registration of a street rod is ~~\$27~~ \$28.

Sec. C-5. 29-A MRSA §458, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Fee. The fee for a registration plate under this section is ~~\$5~~ \$6.

Sec. C-6. 29-A MRSA §461, as amended by PL 1995, c. 482, Pt. B, §5, is further amended to read:

§461. Reservation of same number

1. Plate issue year. In a year in which new registration plates are issued, the Secretary of State shall reserve until July 1st the same registration number for the succeeding registration year for a person who notifies in writing the Secretary of State prior to May 1st of that person's desire to retain that registration number. The fee for retention of the same registration number is ~~\$5~~ \$15.

If a person does not have a vehicle to register on May 1st, a registration number may be held for a maximum of 2 registration years by depositing with the Secretary of State ~~\$10~~ \$15 for each year; except that the registered owner of an antique vehicle may reserve the antique registration assigned to that person for 4 years by depositing the sum of ~~\$12~~ \$15 for each registration year. These fees are not refundable and may not be applied against the registration fee.

All numbers other than those reserved must be released and issued in rotation after July 1st.

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.

A holder of vanity registration plates must pay the sum of \$15 to reserve those letters or combination of letters and numbers, which is credited toward the renewal fee.

2. Nonplate issue year. In other than a plate issue year, when a person fails to reregister and the registration remains expired for 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~~ \$15 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~~ \$15 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. C-7. 29-A MRSA §§466 and 467 are enacted to read:

§466. Registration Plate Equipment and Production Program

The Registration Plate Equipment and Production Program is established as a program within the Highway Fund. One dollar from each registration fee paid in accordance with section 457, 458, 501, 504, 505, 509, 513, 515 or 520 must be paid into the Highway Fund and allocated to the Registration Plate Equipment and Production Program. The Legislature may authorize allocations from the program exclusively for costs relating to the design, production, storage, handling and issuance of registration plates. These costs may include, but are not limited to, the following: the purchase, installation, repair and rebuilding of equipment used in the production or handling of registration plates; materials used in the production, handling and shipping of registration plates; and buildings or space rented, leased or purchased for the production or storage of registration plates or the storage of materials used in the production of plates. Highway Fund allocations to the Registration Plate Equipment and Production Program may not lapse but must be carried forward to be used for the same purposes.

§467. Moratorium on specialty plates

During the period beginning on July 1, 1996 and ending July 1, 1999, the Secretary of State may not issue any specialty plate of a new design. For the purposes of this section, "specialty plate of a new design" means any plate of a design not authorized under this Title before July 1, 1996. It does not include vanity plates issued in accordance with section 453 or commemorative plates issued in accordance with section 454.

Sec. C-8. 29-A MRSA §501, sub-§1, as affected by PL 1995, c. 65, Pt. A, §153, amended by Pt. C, §3 and affected by §15, is further 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~~ \$23.

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-9. 29-A MRSA §504, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Truck or truck tractor. For a truck or truck tractor equipped with pneumatic tires, the following annual registration fee schedule applies.

- A. For gross weight from 0 to 6,000 pounds, the fee is ~~\$22~~ \$23.
- B. For gross weight from 6,001 to 9,000 pounds, the fee is ~~\$28~~ \$29.
- C. For gross weight from 9,001 to 12,000 pounds, the fee is ~~\$45~~ \$46.
- D. For gross weight from 12,001 to 14,000 pounds, the fee is ~~\$78~~ \$79.
- E. For gross weight from 14,001 to 16,000 pounds, the fee is ~~\$102~~ \$103.
- F. For gross weight from 16,001 to 18,000 pounds, the fee is ~~\$127~~ \$128.
- G. For gross weight from 18,001 to 20,000 pounds, the fee is ~~\$158~~ \$159.
- H. For gross weight from 20,001 to 23,000 pounds, the fee is ~~\$185~~ \$186.
- I. For gross weight from 23,001 to 26,000 pounds, the fee is ~~\$217~~ \$218.

J. For gross weight from 26,001 to 28,000 pounds, the fee is ~~\$264~~ \$265.

K. For gross weight from 28,001 to 32,000 pounds, the fee is ~~\$305~~ \$306.

L. For gross weight from 32,001 to 34,000 pounds, the fee is ~~\$339~~ \$340.

M. For gross weight from 34,001 to 38,000 pounds, the fee is ~~\$376~~ \$377.

N. For gross weight from 38,001 to 40,000 pounds, the fee is ~~\$400~~ \$401.

O. For gross weight from 40,001 to 42,000 pounds, the fee is ~~\$423~~ \$424.

P. For gross weight from 42,001 to 45,000 pounds, the fee is ~~\$447~~ \$448.

Q. For gross weight from 45,001 to 48,000 pounds, the fee is ~~\$494~~ \$495.

R. For gross weight from 48,001 to 51,000 pounds, the fee is ~~\$530~~ \$531.

S. For gross weight from 51,001 to 54,000 pounds, the fee is ~~\$565~~ \$566.

T. For gross weight from 54,001 to 55,000 pounds, the fee is ~~\$577~~ \$578.

U. For gross weight from 55,001 to 60,000 pounds, the fee is ~~\$637~~ \$638.

V. For gross weight from 60,001 to 65,000 pounds, the fee is ~~\$696~~ \$697.

W. For gross weight from 65,001 to 69,000 pounds, the fee is ~~\$759~~ \$760.

X. For gross weight from 69,001 to 72,000 pounds, the fee is ~~\$794~~ \$795.

Y. For gross weight from 72,001 to 75,000 pounds, the fee is ~~\$818~~ \$819.

Z. For gross weight from 75,001 to 78,000 pounds, the fee is ~~\$854~~ \$855.

AA. For gross weight from 78,001 to 80,000 pounds, the fee is ~~\$874~~ \$875.

BB. For gross weight from 80,001 to 90,000 pounds, the fee is ~~\$979~~ \$980.

Sec. C-10. 29-A MRSA §505, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Annual registration fee. For a farm truck, the following annual registration fee schedule applies.

A. For gross weight from 0 to 6,000 pounds, the fee is ~~\$18~~ \$19.

B. For gross weight from 6,001 to 9,000 pounds, the fee is ~~\$24~~ \$22.

C. For gross weight from 9,001 to 11,000 pounds, the fee is ~~\$24~~ \$25.

D. For gross weight from 11,001 to 14,000 pounds, the fee is ~~\$36~~ \$37.

E. For gross weight from 14,001 to 16,000 pounds, the fee is ~~\$47~~ \$48.

F. For gross weight from 16,001 to 18,000 pounds, the fee is ~~\$69~~ \$70.

G. For gross weight from 18,001 to 20,000 pounds, the fee is ~~\$84~~ \$82.

H. For gross weight from 20,001 to 23,000 pounds, the fee is ~~\$98~~ \$99.

I. For gross weight from 23,001 to 26,000 pounds, the fee is ~~\$116~~ \$117.

J. For gross weight from 26,001 to 29,000 pounds, the fee is ~~\$143~~ \$144.

K. For gross weight from 29,001 to 32,000 pounds, the fee is ~~\$163~~ \$164.

L. For gross weight from 32,001 to 35,000 pounds, the fee is ~~\$239~~ \$240.

M. For gross weight from 35,001 to 38,000 pounds, the fee is ~~\$262~~ \$263.

N. For gross weight from 38,001 to 42,000 pounds, the fee is ~~\$285~~ \$286.

O. For gross weight from 42,001 to 46,000 pounds, the fee is ~~\$308~~ \$309.

P. For gross weight from 46,001 to 50,000 pounds, the fee is ~~\$334~~ \$332.

Q. For gross weight from 50,001 to 54,000 pounds, the fee is ~~\$354~~ \$355.

Sec. C-11. 29-A MRSA §509, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§509. Tractors

1. Tractors. The annual fee for the registration of a tractor must accompany an application for registration and is as follows.

Tractors equipped with:

A. Pneumatic tires, 25¢ per horsepower and 25¢ per 100 pounds of weight;

B. Solid rubber tires, 25¢ per horsepower and 50¢ per 100 pounds of weight; and

C. Iron, steel or other hard tires, 25¢ per horsepower and 80¢ per 100 pounds of weight.

The minimum fee is ~~\$2~~ \$3.

2. Tractors used for farming. The fee for a tractor used for agricultural purposes or not customarily used on public ways is ~~\$2~~ \$3, except as provided in section 510, subsection 1.

3. Old homemade tractors used for farming. The fee for a homemade tractor used for agricultural purposes with motor and chassis at least 10 years old that has a body capacity of not more than 1 1/2 cubic yards and that is used exclusively for agricultural purposes is ~~\$2~~ \$3. Such a vehicle may not be operated on the highway more than 10 miles from the place where the vehicle is customarily kept.

Sec. C-12. 29-A MRSA §513, 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. Class A special mobile equipment must be operated under an annual registration. The fee for a Class A special mobile equipment registration permit is as follows.

(1) For gross weight from 0 to 54,000 pounds, the fee is as in section 505, subsection 2.

(2) For gross weight from 54,001 to 60,000 pounds, the fee is ~~\$384~~ \$385.

(3) For gross weight from 60,001 to 65,000 pounds, the fee is ~~\$414~~ \$415.

(4) For gross weight from 65,001 to 70,000 pounds, the fee is ~~\$444~~ \$445.

(5) For gross weight from 70,001 to 75,000 pounds, the fee is ~~\$474~~ \$475.

(6) For gross weight from 75,001 to 80,000 pounds, the fee is ~~\$504~~ \$505.

(7) For gross weight from 80,001 to 90,000 pounds, the fee is ~~\$564~~ \$565.

B. The fee for Class B special mobile equipment is ~~\$17~~ \$18.

Sec. C-13. 29-A MRSA §515, 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. Motorcycle. A motorcycle or a parking control vehicle is ~~\$18~~ \$19; and

2. Moped. A moped is ~~\$6~~ \$7.

Sec. C-14. 29-A MRSA §520, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Registration fee. The annual registration fee for special equipment, based on gross weight, is ~~\$7~~ \$8 for equipment weighing one to 2,000 pounds; ~~\$12~~ \$13 for 2,001 to 5,000 pounds; and ~~\$17~~ \$18 for over 5,000 pounds.

Sec. C-15. Task force on production and issuance of license plates. The Secretary of State shall convene a task force to study the production and issuance of license plates. The task force shall convene no later than May 15, 1996 and conclude its work no later than November 1, 1996.

1. Membership. The task force consists of 11 members selected as follows.

The President of the Senate and the Speaker of the House shall each appoint 2 members to serve as task force members. Members may continue to serve after their legislative term of office has expired. At the request of one of their appointees, the appointing authority may appoint another member of the committee to replace the requesting member on the task force.

The Secretary of State shall appoint 2 members representing law enforcement: one representing county sheriffs' departments and one representing municipal police departments.

The Chief of the State Police shall designate a state police officer to serve as a member.

The business manager for the bureau; the director of the public services division within the Bureau of Motor Vehicles; the director of the commercial vehicles division within the bureau; and an assistant deputy secretary of state serve as ex officio members of the task force.

The Chairs of the Joint Standing Committee on Transportation and the Secretary of State shall send a list of the people appointed to serve on the task force to the Executive Director of the Legislative Council no later than May 1, 1996.

2. Convening of first meeting; election of chair. The Secretary of State or a designee of the Secretary of State shall convene the first meeting of the task force no later than May 15, 1996. The task force shall select a chair from among its members.

3. Staff and resource consultants to the task force. The Secretary of State shall provide staff

assistance to the task force. The supervisor of the Maine State Prison plate shop shall serve as a consultant to the task force. The task force may request assistance with the preparation of any recommended legislation from the Legislative Council.

4. Purpose of task force. The task force shall study issues relating to the design and production of license plates and make recommendations to the Legislature for the new general plate issue beginning July 1, 1999. In conducting the study the task force shall examine the following.

A. The task force shall evaluate the existing equipment at the Warren prison facility, its adequacy for meeting plate production demand and the costs of overhauling that equipment prior to a new general issue. The task force shall examine state-of-the-art technology for in-house graphics creation and production of specialty plates. The task force shall consider costs of new equipment and the impact of various types of equipment on production capabilities and on jobs at the prison facility.

B. The task force shall consider methods of assigning unique identifiers to license plates. The task force shall consider use of a stacked letter system to allow duplication of numbers among different types of plates. The task force shall make recommendations as to the use of a single numbering system or a system that allows duplication.

C. The task force shall consider designs for a new general issue plate to replace the lobster plate design. The task force shall use the plate design standards of the American Association of Motor Vehicle Administrators in developing or evaluating designs. The task force shall present design alternatives to the Joint Standing Committee on Transportation before making a recommendation on plate design.

5. Reimbursement for travel expenses. Members of the task force who are Legislators or were Legislators at the time of appointment are entitled to reimbursement for travel expenses for meetings of the task force. Members of the Joint Standing Committee on Transportation who participated in meetings initiated by the Secretary of State to study license plate production issues during the period of September 1, 1995 to December 31, 1995 are entitled to reimbursement for travel expenses upon submitting the appropriate expense forms to the Executive Director of the Legislative Council.

6. Report. The task force shall submit a report including findings, recommendations and proposed legislation to the Joint Standing Committee on Transportation and to the Executive Director of the

Legislative Council no later than November 1, 1996. The task force shall submit legislation to implement its recommendations to the Revisor of Statutes no later than January 1, 1997. The report must include a proposed plate design for the new general issue, recommendations for the registration classes required to display the new general issue plates and for the specialty plates to remain in use concurrent with the new general issue.

Sec. C-16. Effective date. Those sections of this Part that enact Maine Revised Statutes, Title 29-A, section 451, subsection 1-A and section 466 and that amend Title 29-A, section 451, subsection 4; and sections 457, 458, 461, 501, 504, 505, 509, 513, 515 and 520 take effect on July 1, 1996.

PART D

Sec. D-1. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1996-97

SECRETARY OF STATE, DEPARTMENT OF THE

Administration - Motor Vehicles

Positions - Legislative count	(1.0)
Personal Services	\$18,846
All Other	155,077
Capital Expenditures	4,500
TOTAL	178,423

Provides funds for a Clerk Typist III position, software modifications and other general operating expenses to carry out fuel tax processing within the Bureau of Motor Vehicles.

TRANSPORTATION, DEPARTMENT OF

Administration and Planning

All Other	(178,423)
Deallocates funds no longer required for the reimbursement of the Bureau of Taxation for fuel tax processing.	

LEGISLATURE

Task Force on Production and Issuance of License Plates

All Other	4,000
Provides funds for travel expenses and printing costs of the Task Force on Production and Issuance of License Plates.	

TOTAL ALLOCATIONS \$4,000

Sec. D-2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

FINANCE AUTHORITY OF MAINE

University of Maine Scholarship Fund

All Other	(\$54,472)
Deallocates funds to reflect the revised revenue estimate to be generated by this program.	

Sec. D-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Taxation - Bureau of

Positions - Legislative Count	(-3.0)
Personal Services	(\$91,529)
All Other	(86,894)

TOTAL (\$178,423)

Deappropriates funds and eliminates 2 Clerk Typist III positions and a Data Entry Specialist position as a result of transferring fuel tax processing to the Bureau of Motor Vehicles within the

Department of the Secretary of
State.

PART E

Sec. E-1. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1996-97

SECRETARY OF STATE, DEPARTMENT OF THE

Administration - Motor Vehicles

All Other \$7,662

Allocates funds to cover the costs of producing the official state nondriver identification card.

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

Effective April 10, 1996, unless otherwise indicated.

CHAPTER 646

H.P. 1249 - L.D. 1711

An Act to Ensure Proper Withholding of State Income Tax

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

Sec. 1. 36 MRSA §5250, sub-§2, as amended by PL 1989, c. 495, §4 and affected by c. 596, Pt. J, §7, is further amended to read:

2. Withholding exemptions. For purposes of this section:

A. An employee ~~shall be~~ is entitled to the same number of withholding exemptions as the number of withholding exemptions to which ~~he~~ the employee is entitled for federal income tax withholding purposes. An employer ~~may~~ shall rely upon the number of federal withholding exemptions claimed by the employee, except ~~where the employee claims a different number of withholding exemptions in this State as specified in paragraph C;~~

B. The amount of each exemption in this State ~~shall~~ must be the same as that determined in sec-

tion 5126 whether the individual is a resident or a nonresident-; and

C. If the employee claims a number of withholding exemptions in this State that is greater than the number of exemptions claimed for federal income tax withholding purposes, the employee shall provide the employer with a valid withholding exemption variance certificate as specified in subsection 4. If the employee fails to provide the variance certificate, the employer shall rely upon the number of federal withholding exemptions claimed by the employee.

Sec. 2. 36 MRSA §5250, sub-§4 is enacted to read:

4. Withholding exemption variance certificate. An employee who claims a number of state withholding exemptions greater than that claimed for federal income tax withholding purposes shall obtain from the State Tax Assessor a withholding exemption variance certificate. The certificate is valid until December 31st of the year issued or until the circumstances leading to its issuance change so that the individual would no longer qualify for the variance certificate, whichever occurs first. It is the individual's responsibility to promptly report any material change in circumstances relevant to the information provided to the State Tax Assessor in obtaining the certificate. The employee must certify to the State Tax Assessor, in a form prescribed by the State Tax Assessor, information that includes, but is not limited to, the following:

A. That the employee has not incurred any liability for income tax imposed under this Title for the current tax year; and

B. That the employee does not anticipate incurring any liability for income tax imposed under this Title for the current tax year.

The State Tax Assessor shall issue a withholding exemption variance certificate to an employee who meets the requirements of this subsection.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Bureau of Taxation

Positions - Legislative Count	(1.0)
Personal Services	\$31,806

All Other	6,760
Capital Expenditures	49,952
TOTAL	\$43,518

Provides funds for one Revenue Agent position and associated administrative costs to inform nonresident taxpayers and enforce the required withholding amounts.

See title page for effective date.

CHAPTER 647

H.P. 1312 - L.D. 1796

An Act to Facilitate the Lawful Detention of Juveniles

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 extreme shortage of juvenile detention beds and immediate relief is needed; and

Whereas, the full benefit of the proposed exceptions will be realized in the winter 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. 15 MRSA §3203-A, sub-§7, ¶B-1, as amended by PL 1995, c. 155, §1, is further amended to read:

B-1. After December 31, 1991 and until 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~~ Saturdays, ~~Sunday~~ Sundays 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 Ju-

venile 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.

If the requirements of this paragraph are otherwise met and if a condition that threatens safety exists, such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel, a juvenile may be further detained in a jail or other secure detention facility intended or primarily used for the detention of adults for up to 24 hours after the time that conditions allow for reasonably safe travel.

Sec. 2. 15 MRSA §3203-A, sub-§7, ¶B-2, as amended by PL 1995, c. 155, §2, is further amended to read:

B-2. Notwithstanding any other provision of law, until 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 §3314, sub-§2, as amended by PL 1995, c. 502, Pt. F, §6, is further amended to read:

2. Suspended disposition. The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204, as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter IV, except that in no case may the court impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile reside outside the juvenile's home in a setting satisfactory to the juvenile caseworker if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and that continuation in the

juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

Revocation of probation is governed by the procedure contained in Title 17-A, sections 1205, 1205-A and 1206, except that Title 17-A, section 1206, subsection 7-A, does not apply, provided that a disposition under subsection 1, paragraph F, may be modified to a disposition under subsection 1, paragraph H. If a motion for revocation of probation is filed with the court and if the juvenile is being detained pending the court hearing, the court shall review within 5 days, excluding Saturdays, Sundays and legal holidays, the decision to detain the juvenile, if the court has not previously reviewed the decision. Following that review, the court shall order the juvenile's release unless the court finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention under section 3203-A, subsection 4, paragraph C.

Sec. 4. 30-A MRSA §1557, as repealed and replaced by PL 1995, c. 368, Pt. R, §6, is repealed.

Sec. 5. 30-A MRSA §1557-A is enacted to read:

§1557-A. 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.

6. Commissioner of Corrections to determine temporary housing assignments. If a county that does not have a jail or has a jail that is not fully certified is unable to locate space in any other county facility for an adult or juvenile, that county may contact the Commissioner of Corrections for approval to obtain temporary housing in a correctional or detention facility operated by the Department of Corrections. The sending county shall contact each other county facility in a continuing effort to locate placement in a county facility. When the sending county locates available space in a county facility, the sheriff of the sending county shall transfer the person from the department's correctional or detention facility and place the person in the county facility.

Sec. 6. 34-A MRSA §3063-A, as enacted by PL 1995, c. 368, Pt. R, §12, is amended 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 ~~4557~~ 1557-A.

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

Effective April 10, 1996.

CHAPTER 648

H.P. 1318 - L.D. 1802

**An Act to Consolidate and Improve
Delivery of International Trade
Services in Maine**

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

Whereas, the State is in a position to provide better international trade services to its citizens and businesses; and

Whereas, the State has the opportunity to create well-paid jobs in the manufacturing sector if exports are expanded; and

Whereas, immediate action is needed in order to best capitalize on developing the State's competitive trading advantages to create these 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. 5 MRSA §13063-A, as amended by PL 1995, c. 519, §1, is repealed.

Sec. 2. 5 MRSA §§13070-A and 13070-B, as enacted by PL 1989, c. 875, Pt. M, §§6 and 13, are repealed.

Sec. 3. 5 MRSA §13070-C is enacted to read:

§13070-C. International Trade Director

1. Appointment. The Governor shall appoint a full-time International Trade Director, subject to review by the joint standing committee of the Legislature having jurisdiction over business and economic

development matters and confirmation by the Legislature, who shall serve at the pleasure of the Governor. The director shall report to the commissioner in the execution of the director's responsibilities.

2. Duties. The International Trade Director shall implement the State's policies with respect to development of international trade opportunities for the State's businesses and citizens. The director shall serve as the State's diplomat and shall advocate within the State and abroad on behalf of the State and the State's international community.

The director shall serve as the president of the Maine International Trade Center upon confirmation by the center's Board of Directors of the Maine International Trade Center. The director shall oversee activities of the center and has the duties and responsibilities as provided in Title 10, chapter 107-B.

Sec. 4. 10 MRSA c. 107-A, as enacted by PL 1989, c. 875, Pt. K, §§1 and 3, is repealed.

Sec. 5. 10 MRSA c. 107-B is enacted to read:

CHAPTER 107-B

MAINE INTERNATIONAL TRADE CENTER

§945. Establishment

The Maine International Trade Center, referred to in this chapter as the "center," is established to enhance the competitive advantage of state businesses desiring to compete in the international market. The center provides a source of leadership, coordination and a shared vision for international trade development in the State. The purpose of the center, through its cooperative public and private board, is to refine, revise and implement the State's international strategic plan by providing and enhancing services in coordination with the economic development activities of the private sector, community and regional agencies and State Government.

The center is a private nonprofit corporation with a public purpose and the exercise by the center of the powers conferred by this chapter is held to be an essential governmental function.

§945-A. Duties

The center shall provide a base level of services without regard to membership in the center and enhanced services as the center's board of directors may direct, to private entities, individuals, the State and to quasi-public and public entities. The center shall encourage and assist the growth of the State's international economic activities in the following ways.

1. Forum. The center shall provide a continuing forum for the exchange of expertise, ideas and innovations between the public and private sectors.

2. Education. The center shall offer quality education and technical services to businesses in the State that compete or seek to compete in worldwide markets.

3. Development of programs. The center shall act as a catalyst in the development and coordination of international programs.

4. Public policy. The center shall underscore the importance of international trade as a priority of public policy and to enhance public appreciation of the relevance of the international economy.

5. Information. The center shall provide information necessary to transact international business and to make effective decisions concerning international trade and policy.

6. Infrastructure. The center shall support the development and availability of an overall infrastructure conducive to international business.

7. Dissemination of programs. The center shall promote the development and dissemination of education, training and technical assistance programs appropriate for foreign countries.

8. Market opportunities. The center shall identify market opportunities and potential contracts in foreign countries that match the technologies and expertise available in the State and coordinate and submit appropriate proposal responses.

9. Data base. The center shall maintain an international commerce data base to assist in making program decisions.

§945-B. Members of center

Members of the center are individuals and organizations that pay dues to the center or are state agencies as specified in subsection 1. Memberships may be set at different levels. Members shall elect 7 members to the board of directors of the center pursuant to section 945-C.

1. Members. Members are the private individuals, partnerships, firms, corporations, governmental entities and other organizations who pay dues to the center. For the purposes of this chapter, members may include, but are not limited to, municipal and county government, councils of government, local and area development corporations, regional planning commissions, development districts, state agencies, higher educational facilities, including the components of the University of Maine System, the Maine

Maritime Academy, private colleges and postsecondary schools and technical colleges, and other public or quasi-public entities. The following 8 public organizations are granted membership by virtue of the State's contribution to the organization, are exempt from dues requirements and each is entitled to designate one individual to exercise its voting right: the Department of Agriculture, Food and Rural Resources, the State Planning Office, the Finance Authority of Maine, the Department of Labor, the Department of Conservation, the Department of Marine Resources, the Department of Economic and Community Development and the Department of Transportation.

2. Voting rights. All members have a vote in the affairs of the center as set forth in the bylaws of the center, except that when the member is an organization and not an individual the governing body of that organization shall designate the individual who is to exercise the voting right.

§945-C. Board of directors and officers

The Board of Directors of the Maine International Trade Center, referred to in this chapter as the "board of directors," consists of 7 directors elected from the membership and 5 directors appointed by the Governor. Each director is entitled to one vote. Board members' terms must be staggered as determined in the bylaws of the center.

The state representative of the United States Department of Commerce and the state representative of the United States Small Business Administration may serve as nonvoting ex officio directors.

1. Elected directors. The members shall elect 7 directors from among the center's dues-paying membership.

2. Governor-selected directors. The Governor shall select 5 directors, one of whom must be the International Trade Director at the Department of Economic and Community Development. The other 4 directors must have international business or professional experience.

3. Chair; vice-chair; treasurer. The board of directors shall elect the chair and the vice-chair of the board of directors and the treasurer of the center from among the directors.

4. President. The International Trade Director at the Department of Economic and Community Development shall serve as the president of the center upon confirmation by a majority of the board of directors. Once every 2 years, the Governor shall submit the International Trade Director's name to the board of directors for reappointment. Reappointment

is subject to confirmation by a majority of the board of directors.

5. Duties of president. The president shall:

A. Serve as the liaison between the board of directors and the center;

B. Manage the center's programs and services;

C. Ensure that the center's programs reflect the policy and management decisions as described in the strategic plan for the State concerning international trade;

D. Coordinate all services to continually meet the needs of the center as described in the strategic plan for the State;

E. Play a leadership role in coordinating, facilitating and helping to prioritize both the short-term and long-term recommendations of this strategic plan;

F. Serve as the State's diplomat, providing leadership in the area of international trade and advocating within the State and abroad on behalf of the State's international trade community; and

G. Perform such other duties as the board considers appropriate.

§945-D. General powers

The center may:

1. Suit. Sue or be sued in its own name;

2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by grant, donation, loan or any other manner;

3. Economic development services; fees. Employ a staff and provide services to public or private entities to assist their efforts in the development of international trade in the State and to charge such fees for these services as it determines appropriate;

4. Real and personal property. Purchase, receive, hold, lease, acquire by foreclosure, operate, manage, license, sell, convey, transfer or grant real and personal property, together with those rights and privileges that may be incidental and appurtenant to the real and personal property and the use of the real and personal property, including, but not limited to, any real or personal property acquired by the center from time to time in the satisfaction of debts or enforcement of obligations;

5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in real and personal property acquired by the center;

6. Securities. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote thereon;

7. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsection 4, 5 or 6 as security for the payment of any part of the purchase price of the property right or thing of value;

8. Contracts and liabilities. Make contracts, including contracts for services, and incur liabilities for any of the purposes authorized in those contracts;

9. Debt. Borrow money for any of the purposes authorized in this chapter; incur debt, including the power to issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof or interest therein; and

10. Cooperation with agencies and organizations. Cooperate with governmental agencies and the University of Maine System; and cooperate, assist and encourage organizations, local or regional, private or public, in the communities of the State in the promotion, assistance and development of international trade in those communities and the State.

§945-E. Adoption of bylaws

The center shall adopt bylaws consistent with this chapter for the governance of its affairs and has the general powers accorded corporations under Title 13-A, section 202. The center shall take all actions necessary or convenient to carry out the lawful purposes of the center under this chapter.

§945-F. Limitation of powers

The center may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor may it have the power of eminent domain or any other power not provided to

business corporations generally. Bonds, notes and other evidences of indebtedness of the center may not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State.

§945-G. Liability of officers, directors and employees

All officers, directors, employees and other agents of the center entrusted with the custody of the securities of the center or authorized to disburse the funds of the center must be bonded, either by a blanket bond or by individual bonds, with a surety bond or bonds with a minimum limitation of \$100,000 coverage for each person covered by the surety bond, conditioned upon the faithful performance of duties, the premiums for which are paid out of the assets of the center.

§945-H. Prohibited interests of officers, directors and employees

Officers, directors or employees of the center or their spouses or dependent children may not receive any direct personal benefit from the activities of the center in assisting any private entity. This section does not prohibit corporations or other entities with which officers or directors are associated by reason of ownership or employment from participating in international trade activities of the center or receiving services offered by the center as long as the ownership or employment is made known to the board of directors and, if applicable, the officers or directors abstain from voting on matters relating to that participation. This section does not apply to members who are not officers or directors of the center.

§945-I. Donations to State

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

§945-J. Confidential records

The following records are confidential and are not open to public inspection.

1. Proprietary information. Information provided to or developed by the center and included in a business or marketing plan is confidential so long as the person to whom the information belongs or pertains requests that it be designated as confidential and if, when made available, the information would allow a person to obtain a business or competitive advantage over another person or would result in significant detriment to the person to whom the information belongs and when the information is not otherwise available in the public domain.

2. Tax or financial information. Any financial statement, supporting data or tax return of any person is confidential.

3. Credit assessment. Any record obtained by the center that contains an assessment of the credit worthiness, credit rating or financial condition of any person is confidential.

This section does not prohibit the disclosure of information that is otherwise available in the public domain.

§945-K. Annual report; audit

The center shall provide an annual report and an independent audit of its activities to the Governor, the joint standing committee of the Legislature having jurisdiction over economic development matters and the members of the center.

§945-L. General conditions; dissolution

The center shall operate as a nonprofit organization consistent with its composition and broad public purposes. The following conditions apply to the operation or dissolution of the center.

1. Net earnings of center. No part of the net earnings of the center may inure to the benefit of any member, officer, director or employee, except that the center may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property for the purposes of the center.

2. Dissolution of center. Upon dissolution of the center, the members shall transfer all unexpended General Fund appropriations to the State before paying or making provision for the payment of all other liabilities of the center.

§945-M. Liberal construction

This chapter may be construed liberally to effect the intent and purposes of the center for an improved and enhanced international trade development effort in the State and may not be construed as a limitation of powers.

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

1996-97

**ECONOMIC AND
COMMUNITY
DEVELOPMENT,
DEPARTMENT OF**

International Commerce Division

All Other (220,700)

Provides for the deappropriation of All Other funds from the International Commerce Division for the general operation of the Maine International Trade Center.

Office of Business Development

All Other (45,833)

Provides for the deappropriation of All Other funds from the Maine Education Training Export Partnership Program for the general operation of the Maine International Trade Center.

**DEPARTMENT OF ECONOMIC
AND COMMUNITY
DEVELOPMENT
TOTAL**

(266,533)

**MAINE WORLD TRADE
ASSOCIATION**

Maine World Trade Association

All Other (114,583)

Provides for the deappropriation of All Other funds for the general operation of the Maine International Trade Center.

**MAINE WORLD TRADE
ASSOCIATION
TOTAL**

(114,583)

**MAINE INTERNATIONAL
TRADE CENTER**

Maine International Trade Center

All Other 381,116

Provides for the appropriation of All Other funds for the general operation of the center.

**MAINE INTERNATIONAL
TRADE CENTER
TOTAL**

381,116

TOTAL APPROPRIATIONS

\$-0-

Sec. 7. Transition from existing entities to Maine International Trade Center.

1. The Maine International Trade Center must be governed by a transition board until November 1, 1996. This board is composed of 14 members, including 6 elected members of the former Board of Directors of the Maine World Trade Association who represent the private sector; the chair and 2 additional members of the former Board of Directors of the Maine Education and Training Export Partnership; and 5 individuals selected by the Governor. The transition board members from the former Maine World Trade Association and the former Maine Education and Training Export Partnership are to be selected by the respective former boards of directors. Election of the permanent board must take place by October 15, 1996 in a nomination process open to all members of the center. The Governor has the choice of selecting new directors or reappointing those serving on the transition board.

2. The Maine International Trade Center must honor all contracts and other liabilities of the former Maine Education and Training Export Partnership, the former International Commerce Division of the Department of Economic and Community Development and the former Maine World Trade Association.

3. All memberships of the former Maine World Trade Association and the Maine Education and Training Export Partnership must be transferred to the Maine International Trade Center effective August 1, 1996 with all rights and privileges pertinent to the transfer. These members are charter members of the center.

Sec. 8. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Maine Education and Training Export Partnership"; "International Commerce Division" or the "Maine World Trade Association" appear, or reference is made to those words, they are amended to read and mean the "Maine International Trade Center," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 9. Effective date. Those sections of this Act that repeal the Maine Revised Statutes, Title 5, section 13063-A and Title 5, chapter 107-A take effect August 1, 1996.

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

Effective April 10, 1996, unless otherwise indicated.

CHAPTER 649

S.P. 701 - L.D. 1791

An Act to Initiate Education Reform in Maine

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

Sec. 1. 20-A MRSA §§6208 and 6209 are enacted to read:

§6208. Legislative intent

The Legislature finds that because all children can learn at significantly higher levels, it is essential that the Legislature, the State Board of Education, the Department of Education, school administrative units, educators and parents provide children with schools that reflect high expectations and create conditions where these expectations can be met. Through a shared sense of accountability and a cooperative spirit among State Government, school administrative units, educators, parents, business persons, and the community, school administrative units and educators can develop and teach to high standards that will enable students to become productive and fulfilled members of society. The Legislature further finds that the system of learning results established in section 6209 will serve as a foundation for education reform, will promote assessment of student learning, will reinforce accountability and will encourage equity. The Legislature, therefore, encourages the State Board of Education, the Department of Education and school administrative units to employ a high degree of creativity in developing content standards and performance indicators and to explore a wide range of programs and options so that the standards adopted will reflect the highest possible expectations and assessments will be of the highest possible quality. The ultimate goal and intent of the Legislature is to ensure that the State's schools will enable today's students to gain the knowledge and skills necessary to be effective parents, citizens, workers and adults.

§6209. System of learning results established

The department in consultation with the state board shall establish and implement a comprehensive, statewide system of learning results, referred to in this section as the "system," no later than the 2002-03 school year. The system, based broadly upon guiding

principles set forth in this section, must establish high academic standards at all grade levels in the areas of math; English; science and technology; social studies, including history, economics and civics; career preparation; visual and performing arts; health and physical education; and foreign languages. Only students in a public school or a private school approved by the State pursuant to section 2902 and approved for the receipt of public funds by private secondary schools pursuant to section 2951 are required to participate in the system of learning results. The commissioner shall develop accommodation provisions for instances where course content conflicts with sincerely held religious beliefs and practices of a student's parent or guardian. The system shall be adopted to accommodate exceptional students as defined in section 7001, subsection 2.

1. Guiding principles. Each student must leave school as:

A. A clear and effective communicator who:

- (1) Uses oral, written, visual, artistic and technological modes of expression;
- (2) Reads, listens to and interprets messages from multiple sources; and
- (3) Uses English and at least one other language;

B. A self-directed and life-long learner who:

- (1) Creates career and education plans that reflect personal goals, interests and skills, and available resources;
- (2) Demonstrates the capacity to undertake independent study; and
- (3) Finds and uses information from libraries, electronic data bases and other resources;

C. A creative and practical problem solver who:

- (1) Observes situations objectively to clearly and accurately define problems;
- (2) Frames questions and designs data collection and analysis strategies from all disciplines to answer those questions;
- (3) Identifies patterns, trends and relationships that apply to solutions to problems; and
- (4) Generates a variety of solutions, builds a case for the best response and critically evaluates the effectiveness of this response;

D. A responsible and involved citizen who:

- (1) Recognizes the power of personal participation to affect the community and demonstrates participation skills;
- (2) Understands the importance of accepting responsibility for personal decisions and actions;
- (3) Knows the means of achieving personal and community health and well-being; and
- (4) Recognizes and understands the diverse nature of society;

E. A collaborative and quality worker who:

- (1) Knows the structure and functions of the labor market;
- (2) Assesses individual interests, aptitudes, skills, and values in relation to demands of the workplace; and
- (3) Demonstrates reliability, flexibility and concern for quality; and

F. An integrative and informed thinker who:

- (1) Applies knowledge and skills in and across English language arts, visual and performing arts, foreign languages, health and physical education, mathematics, science and technology, social studies and career preparation; and
- (2) Comprehends relationships among different modes of thought and methods associated with the traditional disciplines.

2. Content standards. Each student shall study and achieve proficiency in the following content standard subject areas:

- A. Career preparation;
- B. English language arts;
- C. Foreign languages;
- D. Health and physical education;
- E. Mathematics;
- F. Science and technology;
- G. Social studies; and
- H. Visual and performing arts.

Sec. 2. Development of standards and indicators. The Department of Education and the State Board of Education, and the joint standing

committee of the Legislature having jurisdiction over education matters shall jointly develop recommended content standards and student performance indicators for the subject areas described in the Maine Revised Statutes, Title 20-A, section 6209, subsection 2. Following development of those recommendations the content standards and performance indicators must be established subject to rules established jointly by the department and the board in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II. Proposed rules must be widely circulated to school administrative units and the public during the rule-making process. Rules adopted pursuant to this Act are major substantive rules as defined in Title 5, chapter 375, subchapter II-A, and must be reviewed by the joint standing committee of the Legislature having jurisdiction over education matters and cultural affairs and approved by the Legislature. The rules may not require a school administrative unit to incur additional expenditures unless the State pays for 90% of the costs.

Sec. 3. Schools to adopt system of learning results subject to availability of funds.

Following approval of rules establishing content standards and student performance indicators and subject to state funding for professional development assistance, school administrative units shall adopt the system of learning results. A school administrative unit may delay adoption of the system of learning results in the subject areas of career preparation, foreign languages and visual and performing arts if adoption in those subject areas can not be achieved within existing local resources. The Department of Education shall develop a reporting mechanism that permits a school administrative unit to report such a delay to the department at no cost to the unit.

Sec. 4. Department to review methods and potential costs of implementing learning results.

By January 1, 1997, the Department of Education shall review and make recommendations to the joint standing committee of the Legislature having jurisdiction over education matters on methods for implementing learning results in the areas of career preparation, foreign languages and visual and performing arts within existing local resources. If the department finds that additional funds may be required to implement learning results in those subject areas, the department shall review and estimate the potential costs of implementation. The department shall also review and make recommendations on establishing a date by which all school administrative units must implement learning results in all subject areas.

Sec. 5. System must include plan to assist school administrative units.

The system of learning results established in the Maine Revised Statutes, Title 20-A, section 6209 must include a plan

to assist school administrative units in helping all students achieve the learning results. The Department of Education, in consultation with the State Board of Education and school administrative units, shall develop the plan for assistance. The plan must also include criteria to identify school administrative units experiencing difficulty meeting the learning results and the provision of intensive assistance to these school administrative units. The plan for assistance must be established by July 30, 1997 and implemented during the 1997-98 school year.

Sec. 6. System must include plan for professional development. The system of learning results established in the Maine Revised Statutes, Title 20-A, section 6209 must include a statewide plan for professional development designed to promote the learning results. The professional development plan must be established by the Department of Education in consultation with the State Board of Education, local school administrative units, higher education institutions in this State, regional partnerships and other interested stakeholders. The professional development plan must be completed by June 30, 1996. The plan must be implemented on July 3, 1997 and must include incentive funds awarded by the Department of Education to all school administrative units participating in the plan. Incentive funds must be awarded at a rate of \$8 per pupil or \$10 per pupil for school administrative units whose professional development plans are accomplished in collaboration with one or more other school administrative units. School administrative units must submit to the Commissioner of Education a proposal outlining the unit's plan for professional development. Receipt of incentive funds is contingent upon approval of the proposal by the commissioner.

Sec. 7. State commitment to professional development. Continuation of the system of learning results established in the Maine Revised Statutes, Title 20-A, section 6209 is contingent on an annual General Fund appropriation for professional development of not less than \$2,000,000. The annual appropriation must be in addition to customary and ongoing appropriations of General Fund dollars for education purposes, including grades kindergarten to 12 and higher education. Failure of the Legislature to annually appropriate a minimum of \$2,000,000 for professional development will result in suspension of the system of learning results.

Sec. 8. Establish student assessments. Student achievement of the learning results established in the Maine Revised Statutes, Title 20-A, section 6209 must be measured by a combination of state and local assessments to measure progress and ensure accountability. The 4th-grade, 8th-grade and 11th-grade results of the Maine Education Assessment, the "MEA," are the state assessments used to measure

achievement of the learning results. The 4th-grade and 8th-grade MEA must be used to measure achievement of the learning results beginning in the 1998-99 school year. The 11th-grade MEA must be used to measure achievement of the learning results beginning in the 1999-2000 school year. Local school administrative units may develop additional assessments to measure achievement of the learning results, including student portfolios, performances, demonstrations and other records of achievements.

Sec. 9. Recommendation on student achievement. By January 1, 1997, the State Board of Education and the Department of Education shall review and make recommendations to the Legislature on linking achievement of the learning results established in the Maine Revised Statutes, Title 20-A, section 6209 to completion of high school.

Sec. 10. Report. The State Board of Education and the Department of Education shall provide an annual report no later than December 15th to the joint standing committee of the Legislature having jurisdiction over education matters regarding progress toward implementation of the learning results. The annual report may include recommendations for legislation concerning implementation of the learning results.

See title page for effective date.

CHAPTER 650

H.P. 1279 - L.D. 1758

An Act to Amend the Protection from Abuse and Protection from Harassment Statutes

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

Sec. 1. 5 MRSA §4651, sub-§2, as amended by PL 1995, c. 265, §1, is repealed and the following enacted in its place:

2. Harassment. "Harassment" means:

A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to property and that do in fact cause fear, intimidation or damage to property;

B. Three or more acts that are made with the intent to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine or the United States Constitution; or

C. A single act constituting a violation of section 4681; Title 17, section 2931; or Title 17-A, sections 201, 202, 203, 204, 207, 208, 209, 210, 211, 253, 301, 302, 303, 506-A, 556, 802, 805 or 806.

This definition does not include any act protected by law.

Sec. 2. 5 MRSA §4652, as amended by PL 1991, c. 760, §2, is further amended by inserting at the end a new paragraph to read:

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative.

Sec. 3. 5 MRSA §4653, sub-§1, as amended by PL 1995, c. 265, §3, 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 1995, c. 265, §4, 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, ¶E, as repealed and replaced by PL 1993, c. 680, Pt. A, §12, is repealed.

Sec. 6. 5 MRSA §4654, sub-§4, ¶F, as enacted by PL 1993, c. 680, Pt. A, §13, is amended to read:

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; ~~or~~

Sec. 7. 5 MRSA §4654, sub-§4, ¶G is enacted to read:

G. Having any direct or indirect contact with the plaintiff.

Sec. 8. 14 MRSA §6030-A is enacted to read:

§6030-A. Protection of rental property or tenants

1. Commencing action. A landlord may file a petition for protection of rental property or tenants when the landlord, the landlord's employee or agent, the landlord's rental property or persons who are tenants of the landlord have experienced harm or have been threatened with harm by a tenant of the landlord. The landlord may file the petition in the landlord's own name or, when the landlord has written authority from a tenant to do so, may file the action on behalf of the aggrieved tenant, or both.

2. Procedures and relief. Actions under this section are governed by the procedural provisions of Title 5, chapter 337-A. In addition, a temporary order may be sought if the landlord's rental property is in an immediate and present danger of suffering substantial damage as a result of the defendant's actions, and additional injunctive relief may be granted enjoining the defendant from damaging the landlord's or aggrieved tenant's property or from threatening, assaulting, molesting, confronting or otherwise disturbing the peace of the landlord, the landlord's employee or agent or of any aggrieved tenant.

Sec. 9. 17-A MRSA §212, sub-§3, as enacted by PL 1991, c. 866, §1, is amended to read:

3. As used in this section, "member of the actor's family or household" means the actor's spouse or former spouse, an individual presently or formerly living together with the actor as spouse, the natural parent of the actor's child, an adult household member related to the actor by consanguinity or affinity, a minor child of any household member when the defendant is an adult household member and an

individual presently or formerly living together with the actor as a sexual partner. Professing to be a spouse is not necessary to constitute "living as spouses."

Sec. 10. 19 MRSA §762, sub-§4, as amended by PL 1995, c. 469, §3, 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, 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~~ and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses."

Sec. 11. 19 MRSA §763, as amended by PL 1991, c. 760, §5, is further amended by inserting at the end a new paragraph to read:

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative.

Sec. 12. 19 MRSA §765, sub-§4, ¶C-1, as enacted by PL 1993, c. 475, §9, is amended to read:

C-1. Repeatedly and without reasonable cause:

- (1) Following the plaintiff; or
- (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; ~~or~~

Sec. 13. 19 MRSA §765, sub-§4, ¶D, as enacted by PL 1979, c. 578, §§5 and 7, is amended to read:

D. Taking, converting or damaging property in which the plaintiff may have a legal interest: ~~or~~

Sec. 14. 19 MRSA §765, sub-§4, ¶E is enacted to read:

E. Having any direct or indirect contact with the plaintiff.

Sec. 15. 19 MRSA §766, sub-§1, ¶B-3 is enacted to read:

B-3. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff.

See title page for effective date.

CHAPTER 651

H.P. 1292 - L.D. 1774

An Act to Improve and Expand the Functions of the Department of Audit

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

Sec. 1. 5 MRSA §244, as amended by PL 1985, c. 785, Pt. A, §20, is further amended to read:

§244. Records and reports

The State Auditor ~~shall keep~~ keeps no accounts in the Department of Audit, but ~~he~~ shall conduct a continuous postaudit of the accounts, books, records and other evidences of financial transactions kept in the Department of ~~Finance~~ Financial and Administrative Services or in the other departments and agencies of the State Government. ~~He~~ The State Auditor shall prepare and publish a report for each fiscal year, setting forth the essential facts of such ~~audit~~ audits in summary form, within the following fiscal year after the books of the State Controller have been officially closed. ~~If he shall find~~ If the State Auditor finds in the course of ~~his~~ an audit evidences of material weaknesses, reportable conditions, improper transactions, or of incompetence in keeping accounts or handling funds or of any other improper practice of financial administration, ~~he~~ the State Auditor shall report the same to the Governor and the Legislature immediately. After reporting evidence of material weaknesses or reportable conditions, the State Auditor shall provide for subsequent review to ensure that those conditions are addressed in a timely manner and report to the Governor and the Legislature to confirm the status of the correction of those conditions. ~~If he shall find~~ If the State Auditor finds evidences of illegal transactions, ~~he~~ the State Auditor shall ~~forthwith~~ immediately report ~~such~~ those transactions both to the Governor and to the Attorney General. All such evidences ~~shall~~ must be included in the annual reports of the State Auditor and ~~he~~ the State Auditor may, at ~~his~~ the State Auditor's discretion, make them public at any time during the fiscal year.

Sec. 2. 5 MRSA §244-B is enacted to read:

§244-B. Committee to direct undertaking of audits

Pursuant to section 243, subsection 6, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs may direct the State Auditor to undertake management audits, systems reviews or audits of any department or agency of the State.

Sec. 3. Consolidation of audits of state financial records within the Department of Audit.

1. The Department of Audit shall prepare a proposal to consolidate all of the audits of state financial records within the Department of Audit, except for audits authorized under the Maine Revised Statutes, Title 5, section 1621. The department shall ensure that, under its proposal:

A. All audits of state records are performed by individuals who have had necessary education, training and continuing education;

B. The auditors are properly supervised and independent of the area being audited;

C. All audits of state records are conducted in accordance with generally accepted auditing standards, governmental auditing standards issued by the Comptroller General of the United States, and relevant provisions published by the federal Office of Management and Budget; and

D. Adequate qualified audit staff exist under the State Auditor's supervision to audit all state departments on a reasonable cycle.

2. The Department of Audit shall provide progress reports to the Joint Standing Committee on Appropriations and Financial Affairs no later than August 1, 1996 and October 1, 1996. The committee may meet with representatives from the Department of Audit and any other department or agency of State Government to discuss these reports at any meeting of the committee scheduled in accordance with the Maine Revised Statutes, Title 3, section 522.

3. The Department of Audit shall submit its proposal and any necessary implementing legislation, including proposals to transfer auditor positions to the Department of Audit from other state departments and agencies, to the Joint Standing Committee on Appropriations and Financial Affairs no later than December 1, 1996.

Sec. 4. Examination of financial reporting capabilities within the Bureau of Accounts and Control. The Department of Audit shall examine staffing levels in the Department of Administrative and Financial Services, Bureau of Accounts

and Control as they relate to financial reporting. The Department of Audit shall submit its findings and recommendations, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than December 1, 1996.

Sec. 5. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 5, section 244 and enact Title 5, section 244-B take effect January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 652**H.P. 1304 - L.D. 1785****An Act Relating to Payment of Tristate Lotto Prizes**

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

Sec. 1. 8 MRSA §416, sub-§1, as amended by PL 1991, c. 295, §2 and affected by §4, is further amended to read:

1. Prizes over \$5,000; certified list. All prizes over \$5,000 are awarded to holders of winning tickets as provided in this section. Within one week after any drawing or selection of prize winning tickets, the commission shall deliver to each of the party states a certified list of the tickets to which prizes are awarded and the amount of each such prize. Upon delivery of the certified list and voucher of the commission, moneys sufficient for the payment of those prizes may be withdrawn from the prize account established in section 415, subsection 2. The commission shall each month provide each party state with a record of all such withdrawals. Payment of prizes is made by the commission, or its designee, to holders of the tickets to which prizes are awarded. The right of any person to a prize drawn is not assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person, pursuant to an appropriate judicial order or an administrative order relating to child support, may be paid the prize to which the winner is entitled. ~~The commission and its officers, agents and employees are discharged of all further liability upon payment of a prize pursuant to this section~~ another person as provided in section 416-A.

~~Prior to paying any winnings that must be paid directly by the commission, the commission shall determine whether the lottery winner is on a list,~~

~~provided by any of the party states, of persons who owe to that state a child support debt that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe child support debts, the commission shall suspend payment of winnings and notify the winner of its intention to offset the winner's child support debt against the winnings. The commission shall notify the winner of the winner's right to request a hearing before the creditor agency in the party state within 15 days of the winner's receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether post liquidation events have affected the winner's liability. The decision of the agency as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the creditor agency of the party state requesting setoff certifies to the commission that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the commission shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the commission does not hear from the creditor agency of the party state within 90 days of the notice of intended setoff to the winner, the commission shall release all winnings to the winner.~~

Sec. 2. 8 MRSA §416-A is enacted to read:

§416-A. Payment of prize to another person

1. Conditions permitting payment of a prize to another person. Payment of a prize may be made to a person other than the winner as follows:

A. To the estate of a deceased prizewinner upon receipt by the commission of a certified court order appointing an executor or administrator;

B. To any person pursuant to a certified final order of a court of competent jurisdiction, including orders pertaining to claims of ownership in the prize, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator and distribution of an estate; or

C. To any person, including a trustee, pursuant to a certified final order of a court of competent jurisdiction of a party state approving the voluntary assignment of the right to a prize if the court affirmatively finds all of the following:

(1) That the assignor and the assignee are not represented by the same counsel;

(2) That the assignment is in writing and represents the entire agreement between the parties;

(3) That the assignment agreement contains the following provisions:

(a) The assignor's name, social security number or tax identification number and address;

(b) The assignee's name, social security number or tax identification number, citizenship or resident alien number, if applicable, and address;

(c) The specific prize payment or payments assigned or any portion of the payments, including:

(i) The payable due dates and amounts of each payment to be assigned; and

(ii) The gross amount of the annual payment or payments to be assigned before taxes; and

(d) A notice of right to cancel in immediate proximity to the space reserved for the signature of the assignor in boldface type of a minimum size of 10 points that provides that:

(i) The assignor may cancel the assignment without cost until midnight of the 15th business day after the day on which the assignor has signed an agreement to assign a prize or portion of a prize;

(ii) Cancellation occurs when notice of cancellation is given to the assignee;

(iii) Notice is sufficient if it indicates the intention of the assignor not to be bound; and

(iv) Notice of cancellation, if given by mail, is deemed given when deposited in a mailbox properly addressed with first class mail postage prepaid.

Failure to provide the notice of right to cancel as provided in this division renders the assignment agreement unenforceable and the assignor may collect a reasonable attorney's fee in any action to enforce such agreement;

(4) That, prior to execution of the assignment agreement, the assignee has provided

to the assignor in writing, on a disclosure form separate and apart from the agreement, the following:

- (a) The aggregate dollar value of payments assigned;
- (b) The total consideration paid to the assignor by the assignee; and
- (c) An itemization of all other fees or costs to be paid by the assignor or deducted from the payment to the assignor;

(5) That the assignor has represented to the court in sworn testimony, if a personal appearance is required by the court, or in the assignor's written affidavit, sworn to under penalty of perjury, that:

- (a) Prior to signing the assignment agreement, the assignor reviewed the agreement and understood its terms and effects;
- (b) The assignor has consulted with independent financial and tax advisors not referred by or associated with the assignee;
- (c) The assignor has signed the assignment agreement acting under free will without undue influence or duress;
- (d) The assignor is not under any obligation to pay child support or is under that obligation and is in good standing with respect to that obligation or has agreed to a payment plan with the party state agency responsible for child support and is in full compliance with that plan; and
- (e) The assigned payment or payments are not subject to any claims, liens, levies, security interests, assignments or offsets asserted by other persons or the party states or has provided the court with written consent of each person having such an interest; and

(6) If the assignor is married, the assignor has submitted to the court a signed and notarized statement of the spouse consenting to the assignment. If a notarized statement is not presented to the court, the court shall determine the ability of the assignor to

make the proposed assignment without the spouse's consent.

2. Pledge of payment as collateral for a loan.

A winner may pledge all or any part of a prize as collateral for a loan.

A. Notwithstanding any provision of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, to the contrary, perfection of a security interest in a prize must be completed by filing, in addition to any other filings that may be required, a financing statement with the commission.

B. In order to be entitled to receive a prize payment or payments from the commission, a secured party must obtain a certified final order of a court of competent jurisdiction that:

- (1) Adjudges the prize winner in default of a loan agreement with the secured party;
- (2) Makes findings with respect to the loan agreements and financing statements constituting the loan transaction that are equivalent to those required pursuant to subsection 1, paragraph C and, in addition, a finding that truth-in-lending disclosures set forth in 12 Code of Federal Regulations, Sections 226.17, 226.18, 226.19 and 226.20 were made; and
- (3) Identifies specific payments and awards ownership of those payments to the secured party.

C. This subsection may not be construed to:

- (1) Create or enlarge a cause of action in favor of a secured party;
- (2) Alter or impair any rule of law applicable to or governing the rights of a debtor under federal or state lending statutes; or
- (3) Alter or impair the provisions of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, except to the extent inconsistent with the provisions of this section.

3. Commission intervention. The commission may intervene as of right in any action pursuant to subsection 1, paragraph C or subsection 2, but may not be considered an indispensable or necessary party.

4. Service of final order. A certified copy of the final order required by subsection 1, paragraph B, a certified copy of the final order and the assignor's affidavit required under subsection 1, paragraph C and a certified copy of the final order required by subsec-

tion 2 must be served on the commission together with a nonrefundable processing fee of \$500 within 15 days after entry of the order.

5. Request to modify or vacate final order.

The commission may file a request to modify or vacate a final order pursuant to subsection 1, paragraph C or subsection 2 within 15 days after service of the order on the commission.

6. Payments. Commencing on the 30th day after full compliance with subsection 4 or after final determination of any motion filed to vacate or modify a final order entered pursuant to subsection 5, the commission is obligated to make payments, subject to tax withholding, in accordance with that order.

7. Change in assignment. A modification or amendment to an order pursuant to subsection 1, paragraph B or C or subsection 2 or an additional or subsequent assignment of a prize is not valid or binding on the commission unless the modification, amendment or assignment is approved by a separate court order that meets the requirements of this section.

8. Discharge of liability. The commission, its officers, agents and employees are discharged of all further liability upon payment of a prize pursuant to this section.

9. Confidentiality of records. The financial, tax, trust or personal records filed, received, maintained or produced by the commission in connection with payment of a prize as provided in this section are confidential. Such records are not public records under Title 1, chapter 13. Upon written request, the commission may release the name, town of residence, date of prize and the gross and net amounts of the annual prize payment of a winner. Financing statements filed with the commission are public records.

10. Child support debts. This compact recognizes that each party state has enacted laws authorizing a party state agency to collect child support debts and arrearages. Upon receipt of notice from a party state agency, the commission shall suspend payment of winnings in the amount of the child support debt or arrearage and notify the winner. Child support debts and arrearages of a winner must be offset by the commission in the manner in which the state lottery commission of a party state is required by law to offset those debts and arrearages.

Sec. 3. 19 MRSA §504-B, sub-§2, as enacted by PL 1991, c. 295, §3 and affected by §4, is repealed.

Sec. 4. Effective date. This Act takes effect when the Attorney General notifies the Revisor of Statutes that New Hampshire and Vermont have enacted concurrent legislation relating to payment of

prizes to persons other than the winner, except that the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, relating to the pledge of a future prize payment or payments as collateral to secure a loan, are repealed if any of the following occur:

1. The United States Internal Revenue Service, or IRS, issues a technical rule letter, revenue ruling or other public ruling in which the IRS determines that, based upon the right of voluntary assignment or pledge of future prize payments as collateral to secure a loan as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, a winner who does not assign any prize payments under section 416-A would be subject to an immediate income tax liability for the value of the entire prize rather than the annual income tax liability for each installment when paid;

2. A court of competent jurisdiction issues a published decision holding that, based upon the right of voluntary assignment or pledge of future prize payments as collateral to secure a loan as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, a winner who does not assign any prize payments under section 416-A would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid;

3. Upon receipt of a letter or ruling from the IRS or a published decision of a court of competent jurisdiction, the Director of the Bureau of Alcoholic Beverages and Lottery Operations shall file immediately a copy of that letter, ruling or published decision with the Attorney General; and

4. Upon the filing by the Director of the Bureau of Alcoholic Beverages and Lottery Operations of a letter, ruling or published decision with the Attorney General, a winner is ineligible to assign a prize or pledge a future prize payment or payments as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2.

See title page for effective date.

CHAPTER 653

H.P. 1307 - L.D. 1788

An Act to Establish the Maine Health Data Organization

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

Whereas, current law requiring the Maine Health Care Finance Commission to collect and analyze health care data will expire on June 30, 1996; and

Whereas, the Task Force to Monitor Deregulation of Hospitals has determined that the health data collection and analysis should continue after June 30, 1996; and

Whereas, it is necessary to provide for the transition from the Maine Health Care Finance Commission to the Maine Health Data Organization for the purpose of continuation of the health data collection and analysis functions; 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. 5 MRSA §12004-G, sub-§14-B is enacted to read:

<u>14-B.</u>	<u>Maine Health</u>	<u>Expenses</u>	<u>22 MRSA</u>
<u>Human</u>	<u>Data Organi-</u>	<u>Only</u>	<u>§8703</u>
<u>Services</u>	<u>zation</u>		

Sec. A-2. 22 MRSA c. 1683 is enacted to read:

CHAPTER 1683

MAINE HEALTH DATA ORGANIZATION

§8701. Declaration of purpose

It is the intent of the Legislature that uniform systems of reporting health care information be established; that all providers and payors who are required to file reports do so in a manner consistent with these systems; and that, using the least restrictive means practicable for the protection of privileged health care information, public access to those reports be ensured.

§8702. Definitions

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

1. Board. "Board" means the Board of Directors of the Maine Health Data Organization established pursuant to section 8703.

2. Clinical data. "Clinical data" includes but is not limited to the data required to be submitted by providers pursuant to sections 8708 and 8711.

3. Financial data. "Financial data" includes but is not limited to financial information required to be submitted pursuant to section 8709.

4. Health care facility. "Health care facility" means a public or private, proprietary or not-for-profit entity or institution providing health services, including but not limited to a health care facility licensed under chapter 405, a home health care provider licensed under chapter 419, a residential care facility licensed under chapter 1665, a hospice provider licensed under chapter 1681, a community rehabilitation program licensed under Title 20-A, chapter 701, a state institution as defined under Title 34-B, chapter 1 and a mental health facility licensed under Title 34-B, chapter 1.

5. Managed care organization. "Managed care organization" means an organization that manages and controls medical services, including but not limited to a health maintenance organization, a preferred provider organization, a competitive medical plan, a managed indemnity insurance program and a nonprofit hospital and medical service organization, licensed in the State.

6. Organization. "Organization" means the Maine Health Data Organization established under this chapter.

7. Outpatient services. "Outpatient services" means all therapeutic or diagnostic health care services rendered to a person who has not been admitted to a hospital as an inpatient.

8. Payor. "Payor" means a 3rd-party payor.

9. Provider. "Provider" means a health care facility, health care practitioner, health product manufacturer, health product vendor or pharmacy.

10. Restructuring data. "Restructuring data" means reports, charts and information required to be submitted pursuant to section 8710.

11. Third-party payor. "Third-party payor" means a health insurer, nonprofit hospital, medical services organization or managed care organization licensed in the State. Third-party payor does not include carriers licensed to issue limited benefit health policies or accident, specified disease, vision, disability, long-term care, nursing home care or Medicare supplement policies.

§8703. Maine Health Data Organization established

The Maine Health Data Organization is established as an independent executive agency.

1. Objective. The purpose of the organization is to create and maintain an objective, accurate and comprehensive health information data base for the State built upon existing clinical and financial data bases administered and maintained by the Maine Health Care Finance Commission. The Maine Health Care Finance Commission shall collect, process and analyze clinical and financial data as defined in this section until such time as the Maine Health Data Organization becomes operational, as determined by the board, or December 31, 1996, whichever is earlier.

2. Board of directors. The organization operates under the supervision of a board of directors, which consists of 15 voting members.

A. The Governor shall appoint 13 board members in accordance with the following requirements. Appointments by the Governor are not subject to review or confirmation.

(1) Three members must represent consumers. For the purposes of this section, "consumer" means a person who is not affiliated with or employed by a 3rd-party payor, a provider or an association representing those providers or those 3rd-party payors.

(2) Two members must represent employers.

(3) Two members must represent 3rd-party payors.

(4) Six members must represent providers. Two provider members must represent hospitals chosen from a list of at least 5 current hospital representatives provided by the Maine Hospital Association. Two provider members must be physicians or representatives of physicians chosen from a list of at least 5 nominees provided jointly by the Maine Medical Association and the Maine Osteopathic Association. Two provider members must be representatives of other health care providers, at least one of whom is a current representative of a home health care company.

B. The commissioner shall appoint 2 members who are employees of the department to represent the State's interest in maintaining health data and to ensure that information

collected is available for determining public health policy.

C. All appointments must be completed by May 1, 1996.

3. Terms of office. The terms of office of board members are determined under this subsection.

A. The terms of board members appointed by the Governor are determined as follows.

(1) Initial terms are staggered. One consumer, one employer, one 3rd-party payor and 3 providers shall serve one-year terms. Two consumers, one employer, one 3rd-party payor and 3 providers shall serve 2-year terms.

(2) After the initial terms, members appointed by the Governor shall serve full 2-year terms and shall continue to serve until their successors have been appointed.

(3) Board members may serve 3 full terms consecutively.

B. The terms of departmental board members are 2-year terms. Departmental board members may serve 3 full terms consecutively.

4. Meetings; officers. By June 1, 1996, the Governor shall convene the first meeting of the board, at which the members shall elect a chair and a cochair from among the membership to serve 2-year terms. All meetings of the board are public proceedings within the meaning of the Freedom of Access Law, Title 1, chapter 13, subchapter I.

5. Legal counsel. The Attorney General, when requested, shall furnish any legal assistance, counsel or advice the organization requires in the discharge of its duties.

6. Compensation. Board members are entitled to reimbursement for necessary expenses according to the provisions of Title 5, chapter 379.

§8704. Powers and duties of the board

The board has the following powers and duties.

1. Uniform reporting systems. The board shall establish uniform reporting systems.

A. The board shall develop and implement data collection policies and procedures for the collection, processing, storage and analysis of clinical, financial and restructuring data in accordance with this subsection for the following purposes:

(1) To use, build and improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts;

(2) To coordinate the development of a linked public and private sector information system;

(3) To emphasize data that is useful, relevant and is not duplicative of existing data;

(4) To minimize the burden on those providing data;

(5) To preserve the reliability, accuracy and integrity of collected data while ensuring that the data is available in the public domain; and

(6) To collect from providers who were required to file data with the Maine Health Care Finance Commission on July 1, 1996, data that is substantially similar to the data that was required to be filed with the commission. The organization may collect additional information from the same providers and information from additional providers and payors only when a linked information system for the electronic transmission, collection and storage of data is reasonably available to providers.

B. Information and data required to be filed pursuant to this chapter must be filed annually or more frequently as specified by the organization. The organization shall establish a schedule for compliance with the required uniform reporting systems.

C. The organization may modify the uniform reporting systems for clinical, financial and restructuring data to allow for differences in the scope or type of services and in financial structure among health care facilities, providers or payors subject to this chapter.

D. The board may provide analysis of data upon request.

2. Contracts for data collection; processing.

The board shall contract with one or more qualified, nongovernmental, independent 3rd parties for services necessary to carry out the data collection, processing and storage activities required under this chapter. For purposes of this subsection, a group or organization affiliated with the University of Maine System is not considered a governmental entity. Unless permission is specifically granted by the board, a 3rd party hired by the organization may not release, publish or

otherwise use any information to which the 3rd party has access under its contract and shall otherwise comply with the requirements of this chapter.

3. Contracts generally. The board may enter into all other contracts necessary or proper to carry out the powers and duties of this chapter.

4. Rulemaking. The board shall adopt rules necessary for the proper administration and enforcement of the requirements of this chapter. All rules must be adopted in accordance with Title 5, chapter 375. Unless otherwise provided in this chapter, all rules adopted by the board are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

5. Public hearings. The board may conduct any public hearings determined necessary to carry out its responsibilities.

6. Staff. The board shall appoint staff as needed to carry out the duties and responsibilities of the board under this chapter. The appointment and compensation of the staff are subject to Civil Service Law.

7. Annual report. The board shall prepare and submit an annual report on the operation of the organization and on health care trends to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than February 1st of each year. The report must include an annual accounting of all revenue received and expenditures incurred in the previous year and all revenue and expenditures planned for the next year.

8. Grants. The board may solicit, receive and accept grants, funds or anything of value from any public or private organization and receive and accept contributions of money, property, labor or any other thing of value from any legitimate source, except that the board may not accept grants from any entity that might have a vested interest in the decisions of the board.

9. Cooperation; advice. The board may cooperate with and advise the department and any other person or entity on behavioral risk factor surveys, work site health and safety, and health work force research.

10. Quality improvement foundation. In order to conduct quality improvement research, the board may designate a quality improvement foundation if the board finds the following:

A. That the foundation conducts reliable and accurate research consistent with standards of health services and clinical effectiveness research; and

B. That the foundation has acceptable, established protocols to safeguard confidential and privileged information.

11. Other powers. The board may exercise all powers reasonably necessary to carry out the powers expressly granted and responsibilities expressly imposed by this chapter.

§8705. Enforcement

The board shall adopt rules to ensure that providers file data as required by section 8704, subsection 1, and that users that obtain from the organization health data and information safeguard the identification of patients and providers as required by section 8707, subsections 1 and 3.

1. Rulemaking. The board shall adopt rules setting a schedule of forfeitures for willful failure to file data as required and willful failure to safeguard the identity of patients, providers, health care facilities or 3rd-party payors.

2. Forfeitures. A person or entity that violates the requirements of section 8704, subsection 1 or section 8707, subsections 1 and 3 commits a civil violation for which a forfeiture may be adjudged not to exceed \$1000 per day for a health care facility or \$25 per day for all other persons, entities and providers. A forfeiture imposed under this subsection may not exceed \$25,000 for a health care facility for any one occurrence or \$250 for any other person or entity for any one occurrence.

3. Enforcement action. Upon a finding that a person or entity has willfully refused to comply with the requirements of this chapter, including the payment of a forfeiture determined under this section, the board may take any of the following actions.

A. The board may file a complaint with the licensing board of the provider seeking disciplinary action against the provider.

B. The board may file a complaint with the Superior Court in the county in which the person resides or the entity is located, or in Kennebec County, seeking an order to require that person or entity to comply with the requirements of this chapter, enforcement of a forfeiture determined under this section or for other relief from the court.

§8706. Revenues and expenditures

1. Transition funding. To support the establishment and operation of the organization through June 30, 1997, every hospital, except state hospitals, licensed pursuant to chapter 405 or its successor is subject to an assessment of not more than .07% of its

gross patient service revenues; however, the aggregate assessment on all hospitals may not exceed \$775,000. Each hospital shall pay the assessment charged to it on a quarterly basis, with payments due on or before July 1, 1996, October 1, 1996, January 1, 1997 and March 1, 1997.

2. Permanent funding. To provide permanent funding for the organization, the board shall determine a schedule of fees and assessments. The organization shall submit legislation to establish any recommended fees and assessments, except that fees for the reasonable costs of duplicating, mailing, publishing and supplies as necessary to those functions may be charged without prior authorization.

A. Upon receipt of approval from the Legislature, reasonable user fees may be charged on a sliding scale for the right to access and use the health data and information available from the organization. Fees must be waived for the department and the Bureau of Insurance. Fees may be reduced or waived for users that demonstrate a plan to use the data or information in research of general value to the public health and inability to pay the scheduled fee.

B. Upon receipt of approval from the Legislature, assessments may be applied to all providers of health care, including hospitals and all 3rd-party payors.

C. Money from the General Fund may be appropriated by the Legislature.

3. Use of funds. The organization shall use the revenues from fees, assessments and user fees to defray the costs incurred by the board pursuant to this chapter, including staff salaries, administrative expenses, data system expenses, consulting fees and any other reasonable costs incurred to administer this chapter.

4. Budget. The expenditures of the organization are subject to legislative approval in the biennial budget process.

5. Unexpended funds. Any funds not expended at the end of a fiscal year may not lapse but must be carried forward to the succeeding fiscal year.

6. Deposit with Treasurer of State. The organization shall deposit all payments made pursuant to this section with the Treasurer of State into a dedicated account. The deposits must be used for the sole purpose of paying the expenses of the organization.

§8707. Public access to data

The board shall adopt rules to provide for public access to data and to implement the requirements of this section.

1. Public access; confidentiality. The board shall adopt rules making available to any person, upon request, information, except privileged medical information and confidential commercial information, provided to the organization under this chapter as long as individual patients or health care practitioners are not directly identified. The board shall adopt rules governing public access in the least restrictive means possible to information that may indirectly identify a particular patient, health care practitioner or provider or payor.

2. Notice and comment period. The rules must establish criteria for determining whether information is confidential commercial or privileged medical information and adopt procedures to give affected health care providers, facilities and payors notice and opportunity to comment in response to requests for information that may be considered confidential or privileged.

3. Public health studies. The rules may allow exceptions to the confidentiality requirements only to the extent authorized in this subsection.

A. The board may approve access to identifying information for patients or health care practitioners to the department and other researchers with established protocols that have been approved by the board for safeguarding confidential or privileged information.

B. The rules must ensure that:

(1) Identifying information is used only to gain access to medical records and other medical information pertaining to public health;

(2) Medical information about any patient identified by name is not obtained without the consent of that patient except when the information sought pertains only to verification or comparison of health data and the board finds that confidentiality can be adequately protected without patient consent;

(3) Those persons conducting the research or investigation do not disclose medical information about any patient identified by name to any other person without that patient's consent;

(4) Those persons gaining access to medical information about an identified patient

use that information to the minimum extent necessary to accomplish the purposes of the research for which approval was granted; and

(5) The protocol for any research is designed to preserve the confidentiality of all health care information that can be associated with identified patients, to specify the manner in which contact is made with patients or health care practitioners and to maintain public confidence in the protection of confidential information.

C. The board may not grant approval under this subsection if the board finds that the proposed identification of or contact with patients or health care practitioners would violate any state or federal law or diminish the confidentiality of health care information or the public's confidence in the protection of that information in a manner that outweighs the expected benefit to the public of the proposed investigation.

4. Confidential or privileged designation. The rules must determine to be confidential or privileged information all data designated or treated as confidential or privileged by the Maine Health Care Finance Commission. Information regarding discounts off charges, including capitation and other similar agreements, negotiated between a payor or purchaser and a provider of health care that was designated as confidential only for a limited time under the rules of the Maine Health Care Finance Commission is confidential to the organization, notwithstanding the termination date for that designation specified under the prior rules.

5. Rules for release, publication and use of data. The rules must govern the release, publication and use of analyses, reports or compilations derived from the health data made available by the organization.

§8708. Clinical data

Clinical data must be filed, stored and managed as follows.

1. Information required. Pursuant to rules adopted by the board for form, medium, content and time for filing, each health care facility shall file with the organization the following information:

A. Scope of service information, including bed capacity, by service provided, special services, ancillary services, physician profiles in the aggregate by clinical specialties, nursing services and such other scope of service information as the organization determines necessary for the performance of its duties;

B. A completed uniform hospital discharge data set, or comparable information, for each patient discharged from the facility after June 30, 1983; for each major ambulatory service listed in rules adopted by the organization pursuant to subsection 4, occurring after January 1, 1990; and for each hospital outpatient service occurring after June 30, 1996; and

C. In addition to any other requirements applicable to specific categories of health care facilities or payors, the organization may require the filing of data as set forth in this chapter or in rules adopted pursuant to this chapter.

2. Additional information on ambulatory surgery. Pursuant to rules adopted by the board for form, medium, content and time for filing, each provider shall file with the organization a completed data set, comparable to data filed by health care facilities under subsection 1, paragraph A, for each ambulatory surgery listed in rules adopted pursuant to subsection 4, paragraph A, occurring after January 1, 1990. This subsection may not be construed to require duplication of information required to be filed under subsection 1.

3. More than one licensed health care facility or location. When more than one licensed health care facility is operated by the reporting organization, the information required by this chapter must be reported for each health care facility separately. When a provider of health care operates in more than one location, the organization may require that information be reported separately for each location.

4. Data lists. The scope of clinical data to be collected must be defined and regulated by preparation of lists in accordance with this subsection.

A. By December 31, 1996, and at least annually thereafter, the board shall adopt rules establishing a list of major ambulatory services and surgeries for which data is to be collected. The organization shall distribute the lists to those providers of health care that are required to file information under subsection 1 or 2.

B. In addition to lists prepared pursuant to paragraph A, and subject to the limitations of section 8704, subsection 1, the board may adopt rules requiring the filing of data for other outpatient services by health care facilities, providers and 3rd-party payors. In proposing a rule under this paragraph, the board shall consider the scope of information previously collected by the Maine Health Care Finance Commission and shall determine if or to what extent the collection of data on hospital outpatient services is appropriate after considering the costs and benefits to hospitals

and the public of preparing, submitting and maintaining these data.

5. Medical record abstract data. In addition to the information required to be filed under subsections 1 and 2 and pursuant to rules adopted by the organization for form, medium, content and time of filing, each health care facility shall file with the organization such medical record abstract data as the organization may require.

6. Merged data. The board may require the discharge data submitted pursuant to subsection 1 and any medical record abstract data required pursuant to subsection 5 to be merged with associated billing data.

7. Authority to obtain information. Nothing in this section may be construed to limit the board's authority to obtain information that it considers necessary to carry out its duties.

§8709. Financial data

Financial data must be filed, stored and managed as follows.

1. Financial data. Each health care facility shall file with the organization, in a form specified by rule pursuant to section 8704, financial information including costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges and units of services, except to the extent that the board specifies by rule that portions of this information are unnecessary.

2. Certification required. The board may require certification of such financial reports and attestation from responsible officials of the health care facility that such reports have to the best of their knowledge and belief been prepared in accordance with the requirements of the board.

§8710. Restructuring data

Restructuring data must be filed, stored and managed as follows.

1. Major structural changes. The board may require providers and payors to report the occurrence of major structural changes relevant to the restructuring of the delivery and financing of health care in the State and to the potential effects of that restructuring upon consumers.

2. Rulemaking. The board shall adopt rules to define the specific structural changes to be reported, consistent with subsection 1. The required report must be limited to the filing of a concise narrative description of those occurrences that are clearly defined by the rule as requiring a report, accompanied by a chart depicting the relationship among organizations affected by the structural change. The rule must allow

a single report to be filed by all providers and payors participating in or affected by a structural change for which a report is required.

3. Additional information. In addition to the reports required under subsections 1 and 2, the organization may collect, store and analyze additional information from published sources and information that a provider or payor has prepared voluntarily for nonconfidential distribution to persons other than employees, officers and the governing body of the provider or payor.

4. Construction. Nothing in this section may be construed to require providers or payors to notify the organization prior to taking action to evaluate restructuring or to require providers or payors to generate, compile, analyze or submit information in addition to the concise narrative descriptions and chart required in subsection 2.

§8711. Other health care information

1. Development of health care information systems. In addition to its authority to obtain information to carry out the specific provisions of this chapter, the organization may require providers and payors to furnish information with respect to the nature and quantity of services or coverage provided to the extent necessary to develop proposals for the modification, refinement or expansion of the systems of information disclosure established under this chapter. The organization's authority under this subsection includes the design and implementation of pilot information reporting systems affecting selected categories or representative samples of payors and providers.

2. Information on mandated services. The organization is authorized and directed to require providers of mammography services to furnish information with respect to those services for the purpose of assisting in the evaluation of the social and financial impact and the efficacy of the mandated benefit for screening mammograms under Title 24, section 2320-A and Title 24-A, sections 2745-A and 2837-A. The information that may be collected includes the location of mammography units, the purchase of new mammography units, the number of screening and diagnostic mammograms performed, the charge per mammogram and the method and amount of payment, and the number of cancers detected by screening mammograms. To the extent practicable, the organization shall collect information consistent with that collected by the Maine Health Care Finance Commission in cooperation with the Department of Human Services, Bureau of Health for prior periods.

Sec. A-3. Construction. Nothing in this Act may be construed to enlarge or diminish any authority

that the Maine Health Care Finance Commission possessed under prior law to obtain data regarding out-patient services.

Sec. A-4. Report. The Maine Health Data Organization shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 1997 regarding the fiscal status of the organization, shall make recommendations regarding permanent funding and any fees and assessments to support the organization and shall include any necessary legislation.

Sec. A-5. Transition. The following provisions apply to the transfer of health facilities and other health care data and data functions from the Maine Health Care Finance Commission to the Maine Health Data Organization upon the beginning of operation of the Maine Health Data Organization.

1. The Maine Health Data Organization is the successor in every way to the Maine Health Care Finance Commission with respect to the authority to collect clinical, financial and restructuring data from health care facilities and providers of health care. All responsibilities, power and authority relating to the collection of such health care information that were formerly vested in the Maine Health Care Finance Commission are transferred to the Maine Health Data Organization.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5 and Public Law 1995, chapter 368, Part W, section 14, subsection 3, all accrued expenditures, assets and liabilities and any balances, appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Maine Health Care Finance Commission must be transferred to the proper accounts of the Maine Health Data Organization by the State Controller upon the request of the Maine Health Data Organization when the organization is ready to assume its responsibilities under this Act.

3. All rules and procedures in effect, in operation or adopted on the effective date of this Part by the Maine Health Care Finance Commission regarding data collection, enforcement provisions and requirements remain in effect until rescinded, revised or amended by the Maine Health Data Organization or, with respect to gross patient service revenue limits, by the Department of Human Services.

4. All contracts, agreements and compacts regarding health data, clinical data and restructuring data in effect on the effective date of this Part in the Maine Health Care Finance Commission remain in effect until rescinded, revised or amended by the Maine Health Data Organization.

5. All data required to have been transferred to or filed with the Maine Health Care Finance Commission pursuant to Title 22, chapter 107 are transferred to the Maine Health Data Organization. In the event that any data have not been filed with the Maine Health Care Finance Commission as of the effective date of this Part or the beginning of operation of the Maine Health Data Organization, the Maine Health Data Organization shall direct that data to be filed with the Maine Health Data Organization.

6. All records, property, equipment, contracts, compacts, data, agreements, assets and liabilities belonging to or allocated for the use of the Maine Health Care Finance Commission necessary for performing the data collecting activities shall be transferred to the Maine Health Data Organization upon the beginning of its operation and the Maine Health Care Finance Commission shall cease operations on that date.

Sec. A-6. Transfer of Funds. Notwithstanding any other provision of law, the State Controller must transfer \$140,000 in fiscal year 1996-97 from the Maine Health Data Organization to General Fund undedicated revenue no later than June 30, 1997.

Sec. A-7. Effective date. This Part takes effect May 1, 1996.

PART B

Sec. B-1. 5 MRSA §12004-E, sub-§1, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. B-2. 5 MRSA §12004-I, sub-§44-A, as enacted by PL 1991, c. 84, §1, is repealed.

Sec. B-3. 5 MRSA §12004-I, sub-§§45, 46 and 47, as enacted by PL 1987, c. 786, §5, are repealed.

Sec. B-4. 22 MRSA c. 107, as amended, is repealed.

Sec. B-5. 22 MRSA §1715, sub-§1, as enacted by PL 1989, c. 919, §15 and affected by §18, is amended by amending the first paragraph to read:

1. Access requirements. Any person, including, but not limited to an affiliated interest as defined in section 396-L, that is subject to the requirements of this subsection, shall provide the services listed in paragraph C to individuals who are eligible for charity care in accordance with a charity care policy adopted by the affiliate or provider that is consistent with rules applicable to hospitals under section ~~396-F~~ 1716. A person is subject to this subsection if that person:

Sec. B-6. 22 MRSA §1715, sub-§2, ¶¶A and B, as enacted by PL 1989, c. 919, §15 and affected by §18, are amended to read:

A. Any person who knowingly violates any provision of this section or any valid order or rule made or adopted pursuant to section ~~396-F~~ 1716, or who willfully fails, neglects or refuses to perform any of the duties imposed under this section, commits a civil violation for which a forfeiture of not less than \$200 and not more than \$500 per patient may be adjudged with respect to each patient denied access unless specific penalties are elsewhere provided. Any forfeiture imposed under this section may not exceed \$5,000 in the case of the first judgment under this section against the provider, \$7,500 in the case of a 2nd judgment against the provider or \$10,000 in the case of the 3rd or subsequent judgment against the provider. The Attorney General is authorized to prosecute the civil violations.

B. Upon application of the Attorney General or any affected patient, the Superior Court or District Court has full jurisdiction to enforce the performance by providers of health care of all duties imposed upon them by this section and any valid rules adopted pursuant to section ~~396-F~~ 1716.

Sec. B-7. 22 MRSA §1716 is enacted to read:

§1716. 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. (1995). 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. The guidelines must include provisions for notice to the public and the opportunity for a fair hearing regarding eligibility for charity care.

Sec. B-8. Effective date. This Part takes effect December 31, 1996.

PART C

Sec. C-1. 22 MRSA §253, as amended by PL 1981, c. 470, Pt. A, §§55 and 56, is repealed and the following enacted in its place:

§253. Comprehensive health planning

The department shall adopt before January 15, 1997 and review every year after 1997 a state health plan in accordance with the United States Public Health Services Act, 42 United States Code, Sections 201 to 300 aaa-13 (1995). This plan must identify the health care, facility and human resource needs in the State, the resources available to meet those needs and priorities and recommendations for addressing those needs on a statewide basis.

1. Data; supporting information. In developing and reviewing the state health plan, the department shall use the best and most recent data describing the current supply and distribution of health care, facility and human resources. The department shall consult with the Department of Mental Health, Mental Retardation and Substance Abuse Services and a broadly representative health planning council as provided for in the United States Public Health Services Act, 42 United States Code, Sections 201 to 300 aaa-13 (1995).

2. Plan components. The state health plan must include:

A. An evaluation of the State's capacity to perform health assessment and health policy development and the extent of any unmet need in those areas. The plan must address standards for the protection and promotion of public health, strategies for improving public health, outcomes measurements to evaluate the effects of the plan and recommendations for redirecting funding for public health. This part of the plan must be developed by the Bureau of Health after consultation with representatives of local health departments, area Indian health services, health service providers, other state agencies and residents of the State;

B. A statement of principles used in the allocation of resources and in establishing priorities for health services;

C. Identification of the current supply and distribution of health care resources, including, but not limited to, hospital, nursing home and other inpatient services; home health and mental health services; treatment services for alcohol and substance abuse; emergency care; ambulatory care services including primary care resources; human resources; major medical equipment; and health screening and early intervention; and

D. A determination of the appropriate supply and distribution of resources and services identified in paragraph C and mechanisms that encourage the appropriate integration of these services on a local or regional basis. In making this de-

termination, the council shall consider the following factors: the needs of the population on a statewide basis; the needs of particular geographic areas of the State; the use of facilities in this State by out-of-state residents; the use of out-of-state facilities by residents of this State; the needs of populations with special health care needs; the desirability of providing high-quality services in an economical and efficient manner, including the appropriate use of mid-level practitioners; and the cost impact of these requirements on health care expenditures.

3. Public hearings. Prior to adopting the state health plan and in reviewing the state health plan, the department shall conduct public hearings in different regions of the State on the proposed state health plan. Interested persons must be given the opportunity to submit oral and written testimony. Not less than 30 days before each hearing, the department shall publish in a newspaper of general circulation in the region the time and place of the hearing, the place where interested persons may review the plan in advance of the hearing and the place to which and period during which written comment may be directed to the department.

4. Funds. The department is authorized to accept and expend federal funds allotted or otherwise made available under the United States Public Health Services Act, 42 United States Code, Sections 201 to 300 aaa-13 (1988) to states for the purposes of that Act in accordance with the Act and any amendments to the Act, and the applicable laws, rules, regulations or fiscal policies or practices of this State.

Sec. C-2. 22 MRSA §257 is enacted to read:

§257. Health workforce forum

The department shall convene at least once annually a health workforce forum to discuss health workforce issues. The forum must include representatives of health professionals, licensing boards and health education programs. The forum shall:

1. Inventory. Develop an inventory of present health workforce and educational programs; and

2. Research. Develop research and analytical methods for understanding population-based health care needs on an ongoing basis.

Through the forum, the department shall serve as a clearinghouse for information relating to health workforce issues. The department shall use the information gathered through the forum to develop its health policy and planning decisions authorized under this Title.

Sec. C-3. Effective date. This Part takes effect January 1, 1997.

PART D

Sec. D-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1995-96

MAINE HEALTH DATA ORGANIZATION

Maine Health Data Organization

All Other \$140,000

Provides funds to be deposited in the Maine Health Data Organization Other Special Revenue account during fiscal year 1995-96 to provide start-up funding for the organization.

MAINE HEALTH DATA ORGANIZATION

TOTAL \$140,000

Sec. D-2. 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

Attorney General - Administration

Positions - Other Count (1.0)
Personal Services \$44,383
All Other 3,529
Capital Expenditures 1,300

TOTAL 49,212

Provides for the allocation of funds for one Assistant Attorney General position and general operating expenses to provide legal assistance to the newly created Maine Health Data Organization.

DEPARTMENT OF THE ATTORNEY GENERAL

TOTAL \$49,212

MAINE HEALTH CARE FINANCE COMMISSION

Maine Health Care Finance Commission

Positions - Other Count (-18.0)
Personal Services (\$563,515)
All Other (101,786)
Capital Expenditures (16,849)

TOTAL (682,150)

Provides for the deallocation of funds from the elimination of one Senior Legal Secretary position, one Clerk Steno III position, one Senior Counsel position, one General Counsel, MHCFC position and 3 Health Care Financial Analyst positions effective July 1, 1996 and the elimination of one Clerk Typist III position, 2 Programmer Analyst positions, one Senior Programmer Analyst position, one Executive Director, MHCFC position, one Health Care Financial Analyst position, 3 Comprehensive Health Planner II positions, one Policy Development Director position and one Director Financial Operations Division position effective December 31, 1996 and related All Other and Capital Expenditure allocations due to the elimination of the remaining functions of the Maine Health Care Finance Commission.

MAINE HEALTH CARE FINANCE COMMISSION

TOTAL (\$682,150)

MAINE HEALTH DATA ORGANIZATION

Maine Health Data Organization

Positions - Other Count (4.0)
Personal Services \$34,000 \$204,050

All Other	68,200	411,570
Capital Expenditures	33,970	
TOTAL	136,170	615,620
Provides for the allocation of funds for one Director, Maine Health Data Organization position, one Senior Analyst position, one Analyst position and one Administrative Assistant position and related expenses to establish the Maine Health Data Organization.		
MAINE HEALTH DATA ORGANIZATION TOTAL	136,170	615,620
TOTAL ALLOCATIONS	\$136,170	(\$17,318)

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

Effective April 10, 1996, unless otherwise indicated.

CHAPTER 654

H.P. 1315 - L.D. 1799

An Act Concerning Notice in Foreclosure Proceedings

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

Sec. 1. 14 MRSA §6111, sub-§1, as amended by PL 1993, c. 373, §1, is further amended to read:

1. Notice; payment. With respect to mortgages upon residential property located in this State when the mortgagor is occupying all or a portion of the property as the mortgagor's primary residence and the mortgage secures a loan for personal, family or household use, the mortgagee may not accelerate maturity of the unpaid balance of the obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any required payment, tax payment or insurance premium payment, by any method authorized by this chapter until at least 30 days after the date that written notice is given by the mortgagee to the mortgagor and any cosigner at the last known ~~address~~ addresses of the mortgagor and any cosigner that the mortgagor has the

right to cure the default by full payment of all amounts that are due without acceleration, including reasonable interest and late charges specified in the mortgage or note as well as reasonable attorney's fees. If the mortgagor tenders payment of the amounts before the date specified in the notice, the mortgagor is restored to all rights under the mortgage deed as though the default had not occurred.

Sec. 2. 14 MRSA §6111, sub-§2, as enacted by PL 1991, c. 707, §1, is repealed.

Sec. 3. 14 MRSA §6111, sub-§3, as enacted by PL 1991, c. 707, §1, is amended to read:

3. Notice procedure. A mortgagee gives notice to a mortgagor and any cosigner under this section by mailing the notice by certified mail, return receipt requested. If the notice is undeliverable by certified mail, the mortgagee must send the notice to the mortgagor and any cosigner by ordinary mail. The time when notice is given is the date the mortgagor or any cosigner signs the receipt or, if the notice is undeliverable by certified mail, the date the notice was sent by ordinary mail.

Sec. 4. 14 MRSA §6111, sub-§4 is enacted to read:

4. Notice not required. The notice to mortgagors and cosigners described in this section is not required when the mortgage deed contains a requirement that reinstatement notice, notice of right to cure or equivalent notice be given to mortgagors and cosigners in a manner reasonably consistent with this section.

See title page for effective date.

CHAPTER 655

H.P. 1378 - L.D. 1886

An Act to Reduce the Notice and Hearing Requirements Imposed on Quasi-municipal Corporations and Districts

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

Sec. 1. 30-A MRSA §2357, sub-§1, as enacted by PL 1989, c. 479, is amended to read:

1. Public notice and hearing required. All quasi-municipal corporations or districts must provide reasonable public notice and hearing, as provided by Title 5, ~~chapter 375~~ section 8052, subsection 1 and Title 5, section 8053, before adopting any regulation or expanding or creating any program, except that

notice need not be given to the Secretary of State for publication in the consolidated newspaper notice of agency rulemaking. In addition to the preceding notice requirements, a quasi-municipal corporation or district must publish notice in a newspaper of general circulation in the service area of the corporation or district at least 17 days, but not more than 24 days, in advance of a meeting at which a regulation will be adopted or a program expanded or created.

See title page for effective date.

CHAPTER 656

H.P. 1343 - L.D. 1838

An Act to Remove Statutory References to the Maine Waste Management Agency

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

PART A

Sec. A-1. 5 MRSA §3305, sub-§1, ¶L, as enacted by PL 1995, c. 465, Pt. B, §3 and affected by Pt. C, §2, is amended by amending subparagraph (2) to read:

(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature by January 1, 1998 and every 2 ½ years thereafter; and

Sec. A-2. 10 MRSA §1023-G, sub-§3, ¶D, as enacted by PL 1989, c. 878, Pt. A, §26, is amended to read:

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the ~~Maine Waste Management Agency~~ State Planning Office to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M.

Sec. A-3. 10 MRSA §1041, sub-§18, as enacted by PL 1989, c. 585, Pt. C, §11, is amended to read:

18. Recycling and waste reduction. Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. The ~~Maine Waste Management Agency~~

State Planning Office shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans.

Sec. A-4. 10 MRSA §1063, sub-§2, ¶I-1, as enacted by PL 1989, c. 585, Pt. C, §14, is amended to read:

I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. The ~~Maine Waste Management Agency~~ State Planning Office shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for assistance under this subchapter.

Sec. A-5. 32 MRSA §1723, sub-§2, as amended by PL 1995, c. 465, Pt. A, §7 and affected by Pt. C, §2, is repealed.

Sec. A-6. 32 MRSA §1726, as amended by PL 1995, c. 465, Pt. A, §8 and affected by Pt. C, §2, is repealed and the following enacted in its place:

§1726. Enforcement

A person who labels a plastic container in violation of this chapter commits a violation of the Maine Unfair Trade Practices Act.

Sec. A-7. 32 MRSA §1732, sub-§1, as amended by PL 1995, c. 465, Pt. A, §9 and affected by Pt. C, §2, is repealed.

Sec. A-8. 32 MRSA §1732, sub-§1-A is enacted to read:

1-A. Department. "Department" means the Department of Environmental Protection.

Sec. A-9. 32 MRSA §1734, sub-§2, as amended by PL 1995, c. 184, §3, is further amended to read:

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the ~~agency department~~ for an exemption for a particular package or packaging component and the ~~agency department~~ 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;

Sec. A-10. 32 MRSA §1735, sub-§2, as amended by PL 1993, c. 310, Pt. A, §2, is further amended to read:

2. Presentation of certificates. Each manufacturer shall furnish the ~~agency department~~, at the ~~agency's department's~~ request, with a copy of any certificate of compliance and each manufacturer or supplier shall furnish, at the ~~agency's department's~~ request, copies of a certificate of compliance for distribution to the public.

Sec. A-11. 32 MRSA §1736, sub-§1, as enacted by PL 1989, c. 849, §1, is amended to read:

1. Enforcement. The ~~Department of Agriculture, Food and Rural Resources~~ department shall enforce the provisions of this chapter and may inspect, with the consent of the owner or agent, any property or building to accomplish the objectives of this chapter.

Sec. A-12. 32 MRSA §1737, as enacted by PL 1989, c. 849, §1, is amended to read:

§1737. Rules

The ~~agency department~~ shall adopt rules implementing the provisions of this chapter in consultation with the Department of Agriculture, Food and Rural Resources. Rules must be adopted in accordance with the Maine Administrative Procedure Act. No rule adopted pursuant to this chapter may add or remove prohibitions on packaging or packaging components.

Sec. A-13. 32 MRSA §1738, as enacted by PL 1989, c. 849, §1, is amended to read:

§1738. Public access

A citizen of the State may request in writing from the ~~agency department~~ a copy of the certificate

of compliance for a package or packaging component found in use or for sale in the State.

Sec. A-14. 36 MRSA §2526, sub-§3, as amended by PL 1993, c. 433, §1, is further amended to read:

3. Eligible equipment. Equipment eligible for the credit allowed under this section includes waste reduction, reuse or recycling equipment used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the equipment qualifies for the credit provided for in this section from the ~~Maine Waste Management Agency State Planning Office~~ is required before the tax credit may be taken. Equipment associated with the separation of wastes prior to incineration is eligible when the ~~Maine Waste Management Agency State Planning Office~~ certifies that the separated wastes are being recycled.

Sec. A-15. 36 MRSA §2526, sub-§4, as amended by PL 1993, c. 433, §1, is further amended to read:

4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years ~~for a period not to exceed 15 years~~ but must be used by the tax year ending not later than June 30, 1998.

Sec. A-16. 36 MRSA §5219-D, sub-§3, as amended by PL 1993, c. 433, §2, is further amended to read:

3. Eligible equipment. Equipment eligible for the credit allowed under this section includes waste reduction, reuse or recycling equipment used to reduce, reuse or recycle solid waste, at least 90% of which is generated within the State. A certificate that the equipment qualifies for the credit provided for in this section from the ~~Maine Waste Management Agency State Planning Office~~ is required before the tax credit may be taken. Equipment associated with the separation of wastes prior to incineration is eligible when the ~~Maine Waste Management Agency State Planning Office~~ certifies that the separated wastes are being recycled.

Sec. A-17. 36 MRSA §5219-D, sub-§4, as amended by PL 1993, c. 433, §2, is further amended to read:

4. Limitation; carry-over. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the amount of tax otherwise due under this Part for that year. A credit

may not be used to reduce taxes in any tax year starting before January 1, 1993. Any unused credit may be carried over to the following year or years ~~for a period not to exceed 15 years~~ but must be used by the tax year ending not later than June 30, 1998.

Sec. A-18. 38 MRSA §343-D, sub-§1, as amended by PL 1995, c. 465, Pt. A, §11 and affected by Pt. C, §2, 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, and the Director of the Maine Emergency Management Agency ~~and the Director of the 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-19. 38 MRSA §1303-C, sub-§1, as enacted by PL 1989, c. 585, Pt. E, §4, is repealed.

Sec. A-20. 38 MRSA §1303-C, sub-§7, ~~¶D~~, as amended by PL 1991, c. 220, §6, is further amended to read:

D. The ~~agency office~~ under chapter 24;

Sec. A-21. 38 MRSA §1303-C, sub-§19-C is enacted to read:

19-C. Office. "Office" means the State Planning Office.

Sec. A-22. 38 MRSA §1304, sub-§4, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §227, is further amended to read:

4. Technical assistance. The commissioner is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, disposal technology and environmental effects, including methods of recycling hazardous or solid waste, sludge or septage. The commissioner shall cooperate with the ~~agency office~~ in the design and delivery of this assistance.

Sec. A-23. 38 MRSA §1304, sub-§13, as amended by PL 1991, c. 72, §3, is further amended to read:

13. Innovative disposal and utilization. Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived ash, utilization of ash resulting from combustion of municipal solid waste, paper mill sludges, municipal waste water treatment plant sludges and the composting of yard wastes. The ~~agency office~~ shall first determine that the proposed innovative disposal and waste management programs are consistent with the state plan. The commissioner shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

Sec. A-24. 38 MRSA §1304-B, sub-§4-A, ~~¶D~~, as enacted by PL 1989, c. 585, Pt. E, §15, is amended to read:

D. A municipality ~~which~~ that anticipates that it will be unable to meet its contract obligation to supply a minimum BTU content level or minimum tonnage due to waste reduction or recycling programs and is unable to reach an agreement with the incinerator for the anticipated reduction may request the agency office to intercede. The agency office shall assist the incinerator in soliciting solid waste to mitigate any anticipated shortfall in minimum BTU content level or minimum tonnage. If no agreement on mitigation of ~~a~~ an anticipated shortfall is reached, the terms of the original contract ~~shall~~ prevail, except as otherwise provided in this chapter.

Sec. A-25. 38 MRSA §1310-S, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §249, is further amended to read:

1. Notification. A person applying for a license under this article or giving notice to the commissioner pursuant to section 485-A, shall give, at the same time, written notice to the agency office and to the municipal officers of the municipality in which the proposed facility may be located and shall publish notice of the application in a newspaper of general circulation in the area.

Sec. A-26. 38 MRSA §1310-U, first ¶, as repealed and replaced by PL 1989, c. 585, Pt. E, §33, is amended to read:

Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. Except as provided in section 2173, municipalities are further prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by the agency office or a regional association.

Sec. A-27. 38 MRSA §1705, sub-§1-A, as enacted by PL 1989, c. 869, Pt. B, §1, is repealed.

Sec. A-28. 38 MRSA §1705, sub-§9-B is enacted to read:

9-B. Office. "Office" means the State Planning Office.

Sec. A-29. 38 MRSA §1721, as amended by PL 1991, c. 66, Pt. B, §8, is further amended to read:

§1721. Formation

The formation of a disposal district ~~shall be~~ is accomplished as follows.

1. Application by municipal officers. The municipal officers of the municipality or municipalities that desire to form a disposal district shall file an application with the agency office, after notice and hearing in each municipality, on a form or forms prepared by the agency office, setting forth the name or names of the municipality or municipalities and furnishing such other data as the agency office determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district that includes the words "disposal district," a statement showing the existence in that territory of the conditions requisite for the creation of a disposal district as prescribed in section 1702, and other documents and materials required by the agency office. The agency office may adopt rules under this chapter.

2. Public hearing. Upon receipt of the application, the agency office shall hold a public hearing on the application within 60 days of the date of receipt of the application, at some convenient place within the boundaries of the proposed district. At least 14 days prior to the date of the hearing, the agency office shall publish notice of the hearing at least once in a newspaper of general circulation in the area encompassed by the proposed district.

3. Approval of application. After the public hearing, on consideration of the evidence received, the agency office shall, in accordance with section 1702 and rules adopted by the agency office, make findings of fact and a determination of record whether or not the conditions requisite for the creation of a disposal district exist in the territory described in the application. If the agency office finds that the conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The agency office shall give notice to the municipal officers within the municipality or municipalities involved of a date, time and place of a meeting of the representative of the municipality or municipalities involved. The municipal officers shall elect a representative to attend the meeting who may represent the municipality in all matters relating to the formation of the district. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

4. Denial of application. If the agency office determines that the creation of a disposal district in the territory described in the application is not warranted for any reason, it shall make findings of fact and enter an order denying its approval. The agency office shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved. An applica-

tion for the creation of a disposal district, consisting of exactly the same territory, may not be entertained within one year after the date of the issuance of an order denying approval of the formation of that disposal district, but this provision does not preclude action on an application for the creation of a disposal district embracing all or part of the territory described in the original application, provided that another municipality or fewer municipalities are involved.

5. Joint meeting. The persons selected by the municipal officers, to whom the notice described in subsection 3 is directed, shall meet at the time and place appointed. When more than one municipality is involved, they shall organize by electing a chair and a secretary. An action may not be taken at any such meeting unless, at the time of convening, there are present at least a majority of the total number of municipal representatives eligible to attend and participate at the meeting, other than to report to the agency office that a quorum was not present and to request the agency office to issue a new notice for another meeting. A quorum is a simple majority of representatives eligible to attend the meeting. The purpose of the meeting is to determine the number of directors, subject to section 1724, to be appointed by and to represent each participating municipality and to determine the duration of terms to be served by the initial directors so that, in ensuing years, 1/3 of the directors and their alternates are appointed or reappointed each year, to serve until their respective successors are duly appointed and qualified. Subject to section 1724, the number of directors to represent each municipality is subject for negotiation among the municipal representatives. When a decision has been reached on the number of directors and the number to represent each municipality and the initial terms of the directors, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. The vote so reduced to writing and the record of the meeting must be signed by the chair, attested by the secretary and filed with the agency office. Any agreements among the municipal representatives that are considered essential prerequisites to the formation of the district, whether concerning payments in lieu of taxes to a municipality in which a waste facility is to be located, or any other matter, must be in writing and included in the record filed with the agency office. Subsequent to district formation, the board of directors of the district shall execute all documents necessary to give full effect to the agreements reached by the municipal representatives and filed with the agency office. When a single municipality is involved, a copy of the vote of the municipal officers, duly attested by the clerk of the municipality, must be filed with the agency office.

6. Submission. When the record of the municipality, or the record of the joint meeting, when

municipalities are involved, is received by the agency office and found to be in order, the agency office shall order the question of the formation of the proposed disposal district and other questions relating to the formation to be submitted to the legal voters residing within the municipalities, except as provided in subsection 7, in which case the municipal officers may determine the questions. The order must be directed to the municipal officers of the municipality or municipalities that propose to form the disposal district, directing them to call, within 60 days of the date of the order, town meetings or city elections for the purpose of voting in favor of or in opposition to each of the following articles or questions, as applicable, in substantially the following form:

A. Whether the town (or city) of (name of town or city) will vote to incorporate as a disposal district to be called (name) Disposal District;

B. Whether the residents of (name of town or city) will vote to join with the residents of the (name of town or city) to incorporate as a disposal district to be called (name) Disposal District: (legal description of the bounds of the proposed disposal district). At a minimum, the district must consist of (names of essential municipalities); and

C. Whether the residents of (name of town or city) will vote to approve the total number of directors and the allocation of representation among the municipalities on the board of directors, as determined by the municipal officers and listed as follows: Total number of directors is (number of directors) and the residents of (town or city) are entitled to () directors. (The number of directors to which each municipality is entitled must be listed.)

Directors must be chosen to represent municipalities in the manner provided in section 1725.

7. Determination by municipal officers. In the event that the charters of the respective municipalities, or any one of them, consistent with such state laws as may otherwise be applicable, permit the municipal officers of the municipality or municipalities ~~which~~ that propose to form the disposal district to vote to join such a district, the municipal officers may determine the question of the formation of the proposed disposal district and other questions relating to the formation without submission to the legal voters residing within the municipality.

Sec. A-30. 38 MRSA §1722, as repealed and replaced by PL 1991, c. 66, Pt. B, §9, is amended to read:

§1722. Approval and organization

When the residents of the municipality, or each municipality when more than one is involved, or the municipal officers, as the case may be, have voted upon the formation of a proposed disposal district and all of the other questions submitted, the clerk of each of the municipalities shall make a return to the agency office in such form as the agency office may determine. If the agency office finds from the returns that each of the municipalities involved, voting on each of the articles and questions submitted to them, has voted in the affirmative, and that the municipalities have appointed the necessary directors and listed the names of the directors to represent each municipality, and that all other steps in the formation of the proposed disposal district are in order and in conformity with law, the agency office shall make a finding to that effect and record the finding upon its records. When 3 or more municipalities are concerned in the voting, and at least 2 have voted to approve each of the articles and questions submitted, appointed the necessary directors and listed the names of the directors to represent each municipality, rejection of the proposed disposal district by one or more does not defeat the creation of a district composed of the municipalities voting affirmatively on the question, if the agency office determines and issues an order stating that it is feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively, unless the vote submitted to the municipalities provided that specific participants or a minimum number of participants must approve the formation of the district.

The ~~agency shall~~ office, immediately after making its findings, shall issue a certificate of organization in the name of the disposal district in such form as the agency office determines. The original certificate must be delivered to the directors on the day that they are directed to organize and a copy of the certificate duly attested by the executive director of the agency office must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the agency office is conclusive evidence of the lawful organization of the disposal district. The disposal district is not operative until the date set by the directors under section 1726.

Sec. A-31. 38 MRSA §1725, first ¶, as repealed and replaced by PL 1991, c. 66, Pt. B, §10, is amended to read:

Directors are appointed by the municipal officers of the municipality they represent. Alternate directors may be appointed by the municipal officers to act in the absence of a director. To the extent possible, the board of directors must include a mix of individuals with sufficient managerial, technical, financial or business experience to execute their duties efficiently

and effectively. Appointments must be by vote of the municipal officers, attested to by the municipal clerk and presented to the clerk of the district. The municipal officers, by majority vote, may remove their appointed representatives during their term for stated reasons, but directors may not be removed except for neglect of duty, misconduct or other acts that indicate an unfitness to serve. Upon receipt of the names of all the directors, the agency office shall set a time, place and date for the first meeting of the directors, notice of the meeting to be given to the directors by certified or registered mail, return receipt requested and mailed at least 10 days prior to the date set for the meeting.

Sec. A-32. 38 MRSA §1726-A, sub-§4, ¶A, as amended by PL 1993, c. 11, §2, is further amended to read:

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the assessment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board ~~shall~~, immediately after making its findings, shall issue an amended certificate of organization in the name of the district for a district composed only of the municipalities voting in favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are no longer members of the district. The original of the amended certificate must be

delivered to the directors of the district and a copy of the certificate attested by the ~~Executive Director of the Waste Management Agency~~ State Planning Office must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district continues to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district.

Sec. A-33. 38 MRSA §1727, as repealed and replaced by PL 1991, c. 66, Pt. B, §11, is amended to read:

§1727. Admission of new member municipalities

The board of directors may authorize the inclusion of additional member municipalities in the district upon the terms and conditions as the board, in its sole discretion, determines to be fair, reasonable and in the best interest of the district, except that on proper application any municipality that is host to a waste facility of the district ~~shall~~ must be admitted on equal terms with existing members, provided that the new member municipality assumes or becomes responsible for a proportionate share of liabilities of the district in a manner similar to that of existing municipalities. The legislative body of any nonmember municipality that desires to be admitted to the district shall make application for admission to the board of directors of the district. The directors shall determine the effects and impacts that are likely to occur if the municipality is admitted and shall either grant or deny authority for admission of the petitioning municipality. If the directors grant the authority, they shall also specify any terms and conditions, including, but not limited to, financial obligations upon which the admission is predicated. The petitioning municipality shall comply with the voting procedures specified in section 1721. The vote, if in the affirmative, must be certified by the clerk of that municipality to the board of directors and to the ~~agency office~~. Upon satisfactory performance of the terms and conditions of admission, the municipality ~~shall~~ becomes and thereafter ~~be is~~ is a member municipality of the district. The clerk of the district shall promptly certify to the agency and the Secretary of State that the municipality has become a member of the district. The certification is conclusive evidence that the municipality is a lawful member of the district. Upon admission of a municipality to a district, the provisions of section 1724 determine the number of votes to be cast by the director or directors representing that municipality.

Sec. A-34. 38 MRSA §2101-A, sub-§1, as enacted by PL 1995, c. 465, Pt. A, §28 and affected by Pt. C, §2, is repealed.

Sec. A-35. 38 MRSA §2125, as amended by PL 1995, c. 465, Pt. A, §38 and affected by Pt. C, §2, is repealed.

Sec. A-36. 38 MRSA §2133, sub-§2-A, as enacted by PL 1995, c. 465, Pt. A, §46 and affected by Pt. C, §2, is amended 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. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

Sec. A-37. 38 MRSA §2133, sub-§3, as amended by PL 1995, c. 465, Pt. A, §47 and affected by Pt. C, §2, 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%~~ 50% of the total grant amount.

Sec. A-38. 38 MRSA §2133, sub-§7 is enacted to read:

7. Recycling progress reports. Municipalities shall report annually, on forms provided by the office, on their solid waste management and recycling practices. The annual report must include how much of each type of solid waste is generated and how that solid waste is managed. The 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.

Sec. A-39. 38 MRSA §2134, as amended by PL 1995, c. 465, Pt. A, §51 and affected by Pt. C, §2, is further amended to read:

§2134. Marketing assistance

The office shall ~~implement market development and provide marketing assistance programs, consistent~~

~~with the recycling component of the state plan, which must may include, without limitation, the following elements:~~

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 municipal 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 public and 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; and

4. Brokering service. Provision for marketing and brokering services for materials when municipal and regional association efforts to market the material and the information clearinghouse are inadequate; and.

~~**6. Reuse of waste.** Assistance to industries in promoting the reuse of industrial and commercial wastes that are suitable raw materials for other processes.~~

Sec. A-40. 38 MRSA §2137, first ¶, as amended by PL 1995, c. 465, Pt. A, §55 and affected by Pt. C, §2, is further amended to read:

The ~~office, in cooperation with the~~ Department of 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.

Sec. A-41. 38 MRSA §2138, sub-§1, as amended by PL 1995, c. 465, Pt. A, §56 and affected by Pt. C, §2, is further amended to read:

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.

The office ~~shall~~ may provide technical and marketing assistance and direction to entities within the State to assist with meeting this requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

Sec. A-42. 38 MRSA §2139, as amended by PL 1995, c. 465, Pt. A, §57 and affected by Pt. C, §2, is repealed.

Sec. A-43. 38 MRSA §2140, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2140. Interstate and national initiatives

The office ~~shall~~ may participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

Sec. A-44. 38 MRSA §2154, sub-§2, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

2. Siting; general. Subsequent to the siting process under subsection 1, the Facility Siting Board shall identify additional sites as requested by the office and as capacity needs are identified in the state plan. The Facility Siting Board shall employ the same criteria and considerations employed under subsection 1. The Facility Siting Board shall hold a public hearing in each municipality within which the ~~agency~~ office may recommend the location of any solid waste disposal or refuse-derived fuel processing facility.

Sec. A-45. 38 MRSA §2154, sub-§3, as enacted by PL 1991, c. 794, §4 and affected by §9, is amended to read:

3. Municipal reimbursement. At the conclusion of proceedings before the Facility Siting Board conducted pursuant to subsection 1, the ~~agency~~ office shall reimburse a municipality for eligible expenses incurred as a result of that municipality's direct, substantive participation in proceedings before the Facility Siting Board. The amount reimbursed under this subsection may not exceed \$50,000 for any municipality. For the purposes of this subsection, "eligible expenses" has the same meaning as "expenses eligible for reimbursement" under section 1310-S, subsection 4, and any rules adopted by the Board of Environmental Protection pursuant to that section.

Sec. A-46. 38 MRSA §2159, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2159. Real and personal property; right of eminent domain

The ~~agency~~ office may acquire and hold real and personal property ~~which that it deems considers~~ necessary for its purposes, is granted the right of eminent domain and, for those purposes, may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any

land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining, operating and the closure of solid waste disposal facilities.

Sec. A-47. 38 MRSA §2160, sub-§§1 and 4, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

1. Notice to owner. The agency office shall provide to the owner or owners of record notice of the following:

- A. The determination of the agency office that it proposes to exercise the right of eminent domain;
- B. A description and scale map of the land or easement to be taken;
- C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the agency office; and
- D. Notice of the time and place of the hearing provided in subsection 4.

Notice may be made by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail, return receipt requested, to the last known address of the owner or owners. If the owner or owners are not known or ~~cannot~~ can not be notified by personal service or certified mail, notice may be given by publication in the manner provided in subsection 4.

4. Hearing. The agency office shall hold a public hearing on the advisability of its proposed exercise of the right of eminent domain. Notice of the hearing ~~shall~~ must be made by publication in a newspaper of general circulation in the area of the taking and ~~shall be given published~~ once a week for 2 successive weeks, the last publication to be at least 2 weeks before the time appointed in the hearing. The hearing notice ~~shall~~ must include:

- A. The time and place of the hearing;
- B. A description of the land or easement to be taken; and
- C. The name of the owners, if known.

Sec. A-48. 38 MRSA §2161, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2161. Condemnation proceedings

At the time ~~it~~ the office sends the notice in section 2160, the agency office shall file in the ~~office of the county commissioners of the county~~ county commissioner's office in which the property to be taken is located and cause to be recorded in the

registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason the agency office fails to acquire property ~~which that~~ it is authorized to take ~~and~~, which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, the agency office is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the agency office is not liable for any acts ~~which that~~ would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title ~~shall~~ may not vest in the agency office until payment for the property is made.

Sec. A-49. 38 MRSA §2165, sub-§9, as enacted by PL 1991, c. 808, §2, is repealed.

Sec. A-50. 38 MRSA §2166, sub-§2, as enacted by PL 1991, c. 808, §2, is repealed.

Sec. A-51. 38 MRSA §2170, as enacted by PL 1993, c. 310, Pt. B, §2, is amended to read:

§2170. Host community benefits; application limited to facilities owned or operated by the office

This subchapter applies only to solid waste disposal facilities owned or operated by the agency office. Wherever in this subchapter the term "solid waste disposal facility" or "facility" is used, those terms may be construed only to mean a solid waste disposal facility owned or operated by the agency office.

Sec. A-52. 38 MRSA §2172, as amended by PL 1993, c. 310, Pt. B, §6, is further amended to read:

§2172. Dispute resolution

A host municipality may establish a process, including, but not limited to, negotiation, mediation and arbitration to resolve disputes and to negotiate additional rights and benefits related to the siting and operation of a solid waste disposal facility within the municipality. The citizen advisory committee must be consulted and shall assist in the development and implementation of any process established under this section. At the option of the municipality, the Chair of the Board of Environmental Protection may appoint a neutral mediator to resolve disputes. The municipality is eligible for grants from the agency office to fund dispute resolution programs under this

section related to the siting and operation of a solid waste disposal facility.

Sec. A-53. 38 MRSA §2173, as amended by PL 1993, c. 310, Pt. B, §7, is further amended by repealing and replacing the headnote to read:

§2173. Municipal jurisdiction over office and regional association disposal facilities

Sec. A-54. 38 MRSA §2174, sub-§2, as amended by PL 1993, c. 310, Pt. B, §8, is further amended by amending the first paragraph to read:

2. Information. The host municipality of a solid waste disposal facility has a right to all information from the department and the agency office, pursuant to Title 1, chapter 13, subchapter I. All information provided under this subsection must be made available to the citizen advisory committee and the public by the host municipality.

Sec. A-55. 38 MRSA §2175-A, as corrected by RR 1993, c. 1, §137, is amended to read:

§2175-A. Property value offset

Owners of property, the value of which has been affected by a solid waste disposal facility, are eligible for reimbursement from the agency office for loss in property value directly attributable to the construction and operation of the facility. The agency office shall adopt rules to establish the formula and procedure for reimbursement, including, without limitation, definition of the impact area, a process for establishing baseline real estate values, a time frame within which the property value offset program will be in effect and an accounting of real estate trends in the area.

Sec. A-56. 38 MRSA §2176, first ¶, as amended by PL 1995, c. 465, Pt. A, §71 and affected by Pt. C, §2, is further amended to read:

In addition to payment in lieu of taxes provided in section 2175-B, the 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 office shall base its impact payments on measurable criteria including, without limitation:

Sec. A-57. 38 MRSA §2177, as amended by PL 1993, c. 310, Pt. B, §12, is further amended to read:

§2177. Water supply monitoring and protection

Upon written request from persons owning land contiguous to a solid waste disposal facility, the agency office shall have quarterly sampling and

analysis conducted of private water supplies used by the requestors for drinking water. The sampling and analysis must be conducted in a manner specified by and that meets criteria developed by the department.

If a facility adversely affects a public or private water supply by pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the agency office shall restore the affected supply at no cost to the consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the consumer.

1. Extent of analysis. Water supplies must be analyzed for all parameters or chemical constituents determined by the commissioner to be indicative of typical contamination from solid waste disposal facilities. The laboratory performing the sampling and analysis shall provide written copies of sample results to the agency office, the landowner and to the commissioner.

2. Additional sampling required. If the analysis indicates possible contamination from a solid waste disposal facility, the commissioner shall conduct, or require the agency office to conduct, additional sampling and analysis to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the contiguous property.

3. Written notice of rights. On or before December 1, 1989, for permits issued under this chapter prior to October 1, 1989, and at or before the time of permit issuance for permits issued under this chapter after October 1, 1989, the agency office shall provide owners of contiguous land with written notice of their rights under this section on a form prepared by the commissioner.

Sec. A-58. 38 MRSA §2191, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2191. Fees

The agency office shall establish reasonable fees for waste disposal services provided by the agency office.

Sec. A-59. 38 MRSA §2192, first ¶, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

The fees charged to users of agency-owned office-owned facilities and established by the agency office under this article, by rule, shall provide revenue for the following purposes:

Sec. A-60. 38 MRSA §2192, sub-§§2 to 4, as enacted by PL 1989, c. 585, Pt. A, §7, are amended to read:

2. Interest. To provide for the payment of interest on the indebtedness created or assumed by the agency office;

3. Indebtedness. To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the agency office, which sum ~~shall must~~ be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund ~~shall must~~ be devoted to the retirement of the term obligations of the agency office and may be invested in such securities as savings banks in the State are allowed to hold;

4. Principal payments. To provide for annual principal payments on serial indebtedness created or assumed by the agency office;

Sec. A-61. 38 MRSA §2193, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

§2193. Host municipality fees

The agency office may set fees under this article for the host municipality at a level lower than the fees charged to other municipalities or users, provided that ~~such the~~ lower fees are set in a manner consistent with the rules promulgated by the agency office.

Sec. A-62. 38 MRSA §2201, 2nd ¶, as repealed and replaced by PL 1991, c. 824, Pt. A, §88, is amended to read:

Money in the fund not currently needed to meet the obligations of the agency office must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Sec. A-63. 38 MRSA §2201, 3rd ¶, as amended by PL 1995, c. 395, Pt. P, §8 and affected by §11, is further amended to read:

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's office'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 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 office and

for the repayment of any obligations of the agency office incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency office 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. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency office activities other than those included in the operations account.

Sec. A-64. 38 MRSA §2204, as amended by PL 1995, c. 465, Pt. A, §§75 and 76 and affected by Pt. C, §2, is further amended to read:

§2204. Municipal disposal surcharge; import fees

The agency department shall impose the following fees.

1. Landfill surcharge. A disposal surcharge of \$4 per ton is assessed on any municipal solid waste disposed of by landfilling at a commercial landfill facility.

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 office or a regional association for disposal.

Sec. A-65. 38 MRSA §2232, first ¶, as enacted by PL 1991, c. 676, §1, is amended to read:

An incineration facility shall submit an annual report to the agency office no later than 90 days after the end of the incineration facility's fiscal year. For reasonable cause shown and upon written application by an incineration facility, the agency office may grant an extension of the 90-day period. The report must be certified by an appropriate executive officer of the incineration facility as being complete and accurate. The agency office may prescribe the form of the annual report and the number of copies that must be submitted. The report must include the following information:

Sec. A-66. 38 MRSA §2232, sub-§§4 and 5, as enacted by PL 1991, c. 676, §1, are amended to read:

4. Expenditures. The total expenditures of the incineration facility during the last completed fiscal year including details of those expenditures as required by the agency office; and

5. Other information. Any other information required by the agency office.

Sec. A-67. 38 MRSA §2235, as enacted by PL 1991, c. 676, §1, is amended to read:

§2235. Use of files

The agency office shall keep on file for public inspection and use all reports submitted under this subchapter.

Sec. A-68. 38 MRSA §2236, as corrected by RR 1993, c. 1, §138, is amended to read:

§2236. Limitation

Nothing in this subchapter may be construed to create or expand any agency office authority over financial, organizational or rate regulation of incineration facilities.

Sec. A-69. PL 1993, c. 591, §§3 and 4 are repealed.

Sec. A-70. Notice of tax credit termination date. The State Planning Office shall notify each person certified as eligible for the investment tax credit provided in the Maine Revised Statutes, Title 36, section 2526 or 5219-D of the June 30, 1998 termination date for use of the credit.

PART B

Sec. B-1. Legislative intent. The Legislature intends that the repeal of the Maine Revised Statutes, Title 38, sections 2103, 2122 and 2157 in Public Law 1995, chapter 465 eliminates the statutory authority for the adoption of rules under those sections or the enforcement of any rules adopted under those sections.

See title page for effective date.

CHAPTER 657

S.P. 738 - L.D. 1846

An Act to Combine Certain Reporting Requirements for Employees

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

Sec. 1. 26 MRSA §1082, sub-§13, as amended by PL 1993, c. 312, §1, is further amended to read:

13. Filing payroll reports; penalty. The commission may prescribe rules for the filing of payroll reports for the employing units in the State. Each employing unit shall submit a quarterly payroll report on those forms the bureau prescribes and these quarterly reports are due in the office of the bureau, or of any duly constituted agent of the bureau, on or before the last day of the month following the close of the calendar quarter for which the reports relate. The failure on the part of any employing unit to file the payroll reports within ~~the time stated by rule of the commission~~ this time frame renders the employing unit liable to for a penalty of \$25, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable occurrence that excuses the employing unit from the penalty, except that an extension of time up to 30 days beyond the prescribed due date for a quarterly payroll report may be allowed for good cause upon written request made on or before the due date or 10% of the tax due, whichever is greater.

Provided that in the case of executive, administrative and professional employees, and outside sales representatives, as defined in Part 541 of the Rules and Regulations promulgated under the Fair Labor Standards Act of 1938, as amended as of June 30, 1971, the commissioner, upon the request of an employer of those individuals, may approve an alternative method for obtaining from that employer necessary wage information relative to those employees.

Sec. 2. 26 MRSA §1082, sub-§14, ¶¶A and B, as amended by PL 1979, c. 651, §45, are further amended to read:

A. ~~Determination.~~ The Director of Unemployment Compensation or a representative of the commissioner duly authorized by the commissioner to do so shall determine whether an employing unit is an employer and whether services performed for or in connection with the business of the employing unit constitute employment, and shall give written notice of the determination to the employing unit. Unless ~~such~~ the employing unit, within ~~45~~ 30 calendar days after notification was mailed to its last known address, files an appeal from ~~such that~~ that determination, ~~such the~~ the determination ~~shall be~~ is final.

B. ~~Redetermination.~~ After a determination has been made under paragraph A, the Director of

Unemployment Compensation or a representative of the commissioner may within one year reconsider the determination in the light of additional evidence and make a redetermination and shall give written notice of the redetermination to the employing unit. Unless ~~such~~ the employing unit, within ~~45~~ 30 calendar days after notification was mailed to its last known address, files an appeal from ~~such~~ that redetermination, ~~such~~ the redetermination ~~shall be~~ is final.

Sec. 3. 26 MRSA §1221, sub-§1, ¶A, as amended by PL 1979, c. 651, §24, is further amended to read:

A. Contributions ~~shall~~ accrue and become payable by each employer subject to this chapter, other than those liable for payments in lieu of contributions, for each calendar year in which ~~he~~ the employer is subject to this chapter, with respect to wages for employment, as defined in section 1043, subsection 11. ~~Such~~ These contributions ~~shall~~ become due and ~~must~~ be paid by each employer to the bureau for the fund ~~in accordance with such regulations as the commissioner may prescribe, on or before the last day of the month following the close of the calendar quarter to which the contributions relate and shall may not be deducted, in whole or in part, from the wages of individuals in his employ the employees.~~

Sec. 4. 26 MRSA §1225, sub-§§3 and 4, as amended by PL 1993, c. 312, §3, are further amended to read:

3. Interest on past-due contributions. Contributions are due and payable on or before the last day of the month following the close of the calendar quarter to which contributions relate. Contributions that are unpaid on the date on which they are due and payable, ~~as prescribed by rule,~~ bear interest at the rate determined by the State Tax Assessor as established by Title 36, section 186, from and after the due date, until payment is received by the bureau. ~~The interest rate determined by the State Tax Assessor, for the purposes of this section, is in effect for the full calendar year following the year in which it is determined.~~ If it is shown to the satisfaction of the commissioner that the delinquency arose from reasonable questions of liability under this subchapter, the commissioner, in the commissioner's discretion, may abate part of the interest not to exceed 75% of the total interest. If it is shown to the satisfaction of the commissioner that the delinquency arose through no fault of the employer, ~~no~~ an assessment of interest may not be made.

4. Penalty on past-due contributions. If quarterly contributions are not paid when due, the commissioner shall assess, ~~for the first 30 days after the due date or a waiver, a penalty of 2% of the amount of the contributions and thereafter a penalty of 5% a penalty of 1% of the amount of the unpaid contributions.~~ The commissioner may waive that penalty if it is determined that the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by some other unavoidable occurrence. The commissioner may allow an extension of time up to 30 days beyond the due date for good cause upon written request made on or before the due date for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid contributions.

Sec. 5. 26 MRSA §1225, sub-§8 is enacted to read:

8. Reasonable cause. For reasonable cause, the commissioner shall waive or abate any penalty imposed by subsection 4 and section 1082, subsection 13. Reasonable cause includes, but is not limited to, the following:

A. The failure to file or pay resulted directly from erroneous information provided by the Department of Labor;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. The report was filed and paid less than one month late and all of the taxpayer's reports and payments during the preceding 3 years were timely; or

E. The amount subject to a penalty is de minimis when considered in relation to the amount otherwise properly paid and the number of employees for whom wages are being reported.

The burden of establishing reasonable cause for waiver or abatement is on the taxpayer.

Sec. 6. 26 MRSA §1226, sub-§1, ¶A, as amended by PL 1983, c. 351, §29, is further amended to read:

A. An employer may appeal determinations by the commissioner or ~~his~~ the commissioner's designated representatives made under sections 1221, 1222 and 1225, or an assessment made under section 1225, to the commission by filing an appeal, in accordance with ~~such~~ regulations ~~as~~

~~that the commission shall prescribe~~ prescribes, within ~~45~~ 30 days after notification is mailed to the employer's last known address as it appears in the records of the bureau or, in the absence of such mailing, within ~~45~~ 30 days after the notification is delivered. If the employer fails to perfect ~~such~~ this appeal, the assessment or determination ~~shall be~~ is final as to law and fact.

Sec. 7. 36 MRSA §187-B, sub-§1, ¶A, as enacted by PL 1991, c. 873, §5 and affected by §§8 and 9, is amended to read:

A. If the return is filed before or within 30 days after the taxpayer receives from the State Tax Assessor a formal demand that the return be filed, the penalty is ~~\$40~~ \$25 or 10% of the tax due, whichever is greater.

Sec. 8. 36 MRSA §191, sub-§2, ¶T is enacted to read:

T. The disclosure by employees of the Bureau of Taxation, to designated representatives of the Department of Labor, of all information contained on a joint return or report submitted to the tax assessor and required by the tax assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13.

Sec. 9. 36 MRSA §5253, sub-§1, as amended by PL 1993, c. 395, §22, is further amended to read:

1. General. Every person required to deduct and withhold tax under this Part shall, for each calendar quarter, on or before the ~~21st~~ last day of the month following the close of the calendar quarter or such other reporting period as the State Tax Assessor may require, file a withholding return and remit payment as prescribed by the ~~State Tax Assessor~~ tax assessor. The ~~State Tax Assessor~~ tax assessor shall prescribe the voucher required to be filed with payments.

Sec. 10. Effective date. This Act takes effect for any tax reporting period beginning on or after January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 658

S.P. 734 - L.D. 1843

An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine and to Amend

the Maine Seed Capital Tax Credit Program

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

Whereas, the State's economy will benefit from immediate changes in the Maine Seed Capital Tax Credit 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. 7 MRSA c. 101, sub-c. I-D is enacted to read:

SUBCHAPTER I-D

AGRICULTURAL MARKETING LOANS

§434. Definitions

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

1. Agricultural enterprise. "Agricultural enterprise" means a person or business engaged in the commercial growing or harvesting of plants; raising animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or producing, processing, storing, packaging or marketing a product derived from an agricultural enterprise, with the intent that the product be sold or otherwise disposed of to generate income.

§435. Agricultural marketing loans

1. Administration. The commissioner shall administer the Agricultural Marketing Loan Fund established under Title 10, section 1023-J.

2. Conditions. Agricultural marketing loans are subject to the following conditions.

A. An agricultural marketing loan for any project under this subchapter, the total cost of which exceeds \$50,000, may not exceed 45% of the project cost. A loan from the fund may not be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 10% of the total cost of the project; except that, in order to encourage the undertaking of cooperative projects by 2 or more

agricultural enterprises, an agricultural marketing loan may not be provided unless the cooperating agricultural enterprises as a group demonstrate a commitment of private funds of at least 5% of the total cost of the project.

B. An agricultural marketing loan for any project under this subchapter, the total cost of which is \$50,000 or less, may not exceed 55% of the total cost of the project.

C. An agricultural marketing loan must be at the interest rate established pursuant to subsection 3.

D. A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the Agricultural Marketing Loan Fund may be assumed by subsequent purchasers of the property. The department shall adopt rules concerning the purchase of existing buildings. These rules must include provisions that ensure that the purchases are consistent with the purposes of this subchapter.

E. An agricultural marketing loan is subject to other terms and conditions prescribed, by rule, by the commissioner, including, but not limited to, a mechanism for reserving funds for, or giving priority to, projects in agricultural enterprises or areas of the State determined by the commissioner to require special assistance. When considering loans for aquacultural enterprises, the commissioner shall consult with the Department of Marine Resources.

3. Interest rate. The commissioner, by rule, may establish an interest rate for a loan, except that this rate may not be less than 5% per year. If the commissioner does not establish an interest rate, the rate on a loan is a rate that is 2% less than the prime rate of interest as is determined by the commissioner.

4. Administrative costs. The commissioner may establish, by rule, a fee for administrative costs on loans in excess of \$50,000. This fee may not exceed 1% of the loan. The commissioner may contract with the Finance Authority of Maine to assist in the administration of this subchapter.

§436. Grants for technical assistance and research

The commissioner may use all or a portion of the accrued interest in the cash balance of the fund and interest portion of loan repayments, up to a maximum of \$150,000 per year, for grants for technical assistance and for the research programs identified in the

technology transfer program in chapter 10, and the Agricultural Market Research and Development Fund established in section 401-D, for the purposes of supporting adoption of new and innovative technology to support agricultural production and marketing.

§437. Routine technical rules

Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 10 MRSA §1023-J is enacted to read:

§1023-J. Agricultural Marketing Loan Fund

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 101, subchapter I-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; or for the construction, renovation or acquisition of land, buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise. Repayment of these loans and interest on these loans must be credited to the fund and must be available for making additional loans for the same purposes, except that interest may be used for the purposes stated in Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property.

Sec. 3. 10 MRSA §1100-T, sub-§2, ¶E, as amended by PL 1991, c. 854, Pt. A, §9, is further amended to read:

E. The business receiving the investment 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 the principal owner's spouse, ~~parents, brothers, sisters and children~~ are not eligible for a credit for investment in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

Sec. 4. 10 MRSA §1100-T, sub-§2-A, ¶E, as enacted by PL 1995, c. 424, §3, is amended to read:

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. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in the business.

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

Effective April 10, 1996.

CHAPTER 659

S.P. 748 - L.D. 1858

An Act Regarding Agricultural Irrigation Ponds

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 an individual permit pursuant to the laws governing the protection of natural resources for the alteration of a stream for the purpose of constructing an irrigation pond; and

Whereas, it is necessary to allow a simplified, general permit procedure for alteration of certain streams in order to meet the needs of farmers for pond construction prior to this year's growing 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 §480-Y is enacted to read:

§480-Y. Creation of agricultural irrigation ponds

1. General permit. A general permit is required for the alteration of a freshwater, nontidal stream to construct an agricultural irrigation pond. If the provisions of this section are met, an individual permit is not required.

2. Eligibility criteria. The following eligibility criteria must be met.

A. The farm must have an irrigation management plan, referred to in this section as the "irrigation plan." The irrigation plan must identify the total number of irrigated acres on the farm or on a specified management unit, the amount of water needed, the potential sources of water for irrigating the field and the water management practices that will be used to ensure that the amount of water used for crop irrigation will be kept to a minimum. For the purposes of this subsection, "farm" has the same meaning as in Title 17, section 2805.

B. The department must have assessed the affected area as having no significant habitat for fish and wildlife. For the purposes of this section, "significant habitat" means the same as "significant wildlife habitat" in section 480-B, subsection 10; a fish spawning or nursery habitat; a habitat required for migration of fish species to or from a spawning or nursery habitat; or a habitat otherwise supporting a moderate to high population of salmonid species as determined by the Department of Inland Fisheries and Wildlife.

C. The pond may not be located in a wetland containing endangered or threatened plant species as determined pursuant to Title 5, section 13078, subsection 3 or containing a natural community that is imperiled (S2) or critically imperiled (S1) as defined by the Natural Areas Program pursuant to Title 5, section 13076.

D. A site assessment must be conducted by the department prior to the submission of an application. The department may defer a site assessment for a reasonable period when winter conditions prevent the department from properly evaluating the affected area.

3. Standards. The following standards must be met.

A. The pond, dams and outlets must be designed by a professional engineer to United States Natural Resources Conservation Service standards.

B. Dam fill material must be specified by the professional engineer and must be compacted to 95% of standard proctor. Compaction testing must be conducted with tests performed at a minimum of 2 per dam site or one every 100 feet of dam length, whichever is greater.

C. The pond outlet must be designed to passively discharge a minimum flow equal to inflow or the site-specific aquatic base flow, whichever is less, at all times. The site-specific aquatic base flow must be that specified by the department following consultation with the Department of Inland Fisheries and Wildlife, the United States Natural Resources Conservation Service and other qualified advisors during the site assessment.

D. The pond outlet must be designed and maintained to ensure a cold water release by using a method such as a bottom draw and to induce dissolved oxygen by using a method such as a riprap slope to increase water turbulence.

E. An erosion control plan must ensure that siltation or sedimentation downstream of the dam site is kept to a minimum, to the fullest extent practical, during construction, operation and maintenance of the irrigation pond.

F. The landowner shall maintain a permanently vegetated buffer strip that consists of field grasses or woody vegetation 25 feet wide around the pond except where slopes are equal to or greater than 20%, in which case the buffer strip must be 75 feet wide. Unless recommended to be thinned or mowed on an annual basis by the department or the United States Natural Resources Conservation Service, buffer strip vegetation may not be cut. An access road and irrigation pipes may cross through the buffer strip.

G. All instream construction activities must be conducted between July 15th and October 1st of the same year unless the department determines in the site assessment that an earlier start date will not cause a significant adverse impact to fish and wildlife resources.

4. Submissions. The following provisions apply to the submission of applications.

A. An application must be filed with the department and must include the following:

(1) The application cover sheet, as provided by the department;

(2) The United States Geological Survey topographical map with the boundaries of the farm and the pond site clearly marked;

(3) A photograph of the stream at the proposed dam site;

(4) A copy of the irrigation plan for the farm;

(5) Site plans showing existing and proposed topography, stream channel location, existing wetland boundaries, maximum pool elevation, normal pool elevation, dam footprints, outlet location, emergency spillway location, access roads, stockpile locations and buffer strips;

(6) Cross sections through the dam and outlet structure, including proposed maximum pool elevation and normal pool elevation;

(7) A plan to maintain minimum flow downstream, including any calculations used to create the plan;

(8) A complete erosion control plan using practices contained in the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" (1991) unless otherwise approved or required by the department. The erosion control plan must include a narrative with a sequence for implementing the plan, provisions to inspect and maintain erosion controls and a site plan showing locations of control measures. The plan must include provisions for maintaining a dry construction site. These provisions may consist of construction during a no-flow period, a temporary cofferdam or a stream diversion. The erosion control plan must also include provisions for dewatering and disposal of dredged and excavated soil material. The disposal of soil material dredged from the stream must comply with the requirements of the State's solid waste management rules;

(9) Test pit logs and test results from a minimum of 2 test pits dug in the footprint of the dam and results of tests done under the direction of a professional engineer on the dam fill material; and

(10) A copy of the property deed, lease, purchase and sale agreement or other legal document establishing that the applicant has title or right to or interest in the property proposed for pond development.

All design materials used to show that the dam design meets the standards of the general permit must be signed and stamped by a professional engineer.

B. Following construction and prior to operation of the irrigation pond, the permittee must submit an inspection report by a professional engineer stating that the professional engineer inspected the dam and that it was constructed in conformance with the standards established in subsection 3. The report must specifically include evidence that the proper number of compaction tests were done and proper compaction specifications have been achieved. The inspection report must include a copy of the job diary and information on when inspections were done and what was inspected.

5. Review period. Work may not commence until 30 days after the department has accepted an application for processing.

6. Notification. The department shall notify the applicant in writing within 30 days of acceptance for processing if the department determines that the requirements of this section have not been met. This notification must specifically cite the requirements of this section that have not been met. If the department has not notified the applicant under this section within the specified time period, a general permit is deemed to have been granted.

7. Fees. The department shall assess a fee for review of an application filed pursuant to this section. The fee must be equivalent to the amount assessed for activities requiring an individual permit for stream alterations.

8. Violation. A violation occurs when an activity takes place that is not in compliance with the provisions of this section or the plans submitted with the application. Any deviation from the approved plans must receive prior department approval.

Sec. 2. 38 MRSA §488, sub-§11, as enacted by PL 1993, c. 383, §26 and affected by §42, is amended to read:

11. Farm and fire ponds. A pond or ponds having a total surface area of less than 10 acres, on a parcel, that is used for irrigation of field crops, water storage for cranberry operations or fire protection determined to be necessary in that location by the municipal fire department is exempt from review

under this article. This provision does not provide an exemption for mining or advanced exploration activity.

Sec. 3. Evaluation period. The Department of Environmental Protection shall monitor the effectiveness of the general permit established by the Maine Revised Statutes, Title 38, section 480-Y from the effective date of this Act until October 1, 1997. 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 and an assessment of the overall effectiveness of the general permit in terms of administrative efficiency and equivalent or enhanced protection of the natural resources affected. The reports must include recommendations on any necessary statutory changes.

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

Effective April 10, 1996.

CHAPTER 660

H.P. 1346 - L.D. 1841

An Act to Distribute the Assets of the Maine Sardine Council to Council Members upon Dissolution of the Council by the Legislature

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

Sec. 1. 32 MRSA §4167, sub-§§7, 8 and 9 are enacted to read:

7. Dissolution; assets to council members. Upon dissolution of the council by the Legislature, all assets of the council, including property, equipment and unexpended cash balances derived from the tax imposed on sardines under Title 36, chapter 713 and any other sources, must be distributed by the Legislature in an equitable manner among all companies with representatives on the council on the date of dissolution. Prior to distributing the assets of the council, the Legislature must review recommendations from the joint standing committee of the Legislature having jurisdiction over marine resource matters regarding the distribution of assets to council members.

8. Audit prior to dissolution. Prior to the dissolution of the council, the State Auditor must conduct an audit of the financial records of the council and report the findings to the joint standing committee

of the Legislature having jurisdiction over marine resource matters. The council may request the State Auditor to conduct that audit. The council shall reimburse the State Auditor for costs incurred by the State Auditor to conduct that audit.

9. Annual report. The council shall present annually a report no later than February 1st to the joint standing committee of the Legislature having jurisdiction over marine resource matters. The report must describe the council's finances and activities in the previous calendar year.

See title page for effective date.

CHAPTER 661

H.P. 1372 - L.D. 1880

An Act to Extend the Milk Handling Tax

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

Sec. 1. 36 MRSA §4773, as enacted by PL 1995, c. 2, §5, is amended to read:

§4773. Repeal

This chapter is repealed on ~~August 1, 1996~~
November 1, 1997.

See title page for effective date.

CHAPTER 662

S.P. 753 - L.D. 1866

An Act to Improve the Child Development Services System

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

Sec. 1. 20-A MRSA §7727, sub-§2, as amended by PL 1993, c. 625, §3, is further amended to read:

2. Plan. The department shall submit the State's plan for meeting the requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., to the Federal Government. The State's plan may not require services that exceed minimum federal requirements.

Sec. 2. 20-A MRSA §7730, as enacted by PL 1991, c. 843, §3, is amended to read:

§7730. Regional site board of directors

Each board of directors of a regional intermediate education unit or a private nonprofit corporation is responsible for governance of its activities, including the management and oversight of its general operations as established in section 7728. Membership must include representatives of the regional offices of the Department of Human Services and the Department of Mental Health and Mental Retardation, representatives of participating school administrative units, parents of infants and children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the system is limited to work performed for the school administrative unit is exempt from the requirements of this section. Terms of membership and methods of appointment or election must be determined by board of directors bylaws, subject to approval of the department.

Sec. 3. 20-A MRSA §7730-A is enacted to read:

§7730-A. Completion of term

Notwithstanding section 7730, a board member serving on a regional site board and deriving revenue from work performed for the Child Development Services System on the effective date of this section may complete that board member's term of office.

Sec. 4. 20-A MRSA §7731, sub-§2, as enacted by PL 1991, c. 843, §3, is amended to read:

2. Employees. Employ qualified professional and other staff at the local site. The board of directors has the authority to hire, fire and supervise the staff of the regional site and to develop and adopt personnel policies for its employees. Professional therapists may be employed as site staff when the board and the state intermediate education unit find that:

A. Site staff therapists are needed to perform evaluations of children to ensure appropriate service plans;

B. Therapists serving children on a contractual basis are unable to provide required services within timelines mandated by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; or

C. Site staff therapists are able to provide services comparable to those provided by contract therapists at an identifiable savings to the Child

Development Services System, as determined by the commissioner;

Sec. 5. 20-A MRSA §7732-A, sub-§§8 and 9, as enacted by PL 1993, c. 625, §10, are amended to read:

8. Designate personnel for training. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit. The board of directors shall determine which trained and certified personnel may commit funds; ~~and~~

9. Targeted case management. Following certification by the Bureau of Medical Services within the Department of Human Services, seek reimbursement, whenever feasible, for targeted case management; ~~and~~

Sec. 6. 20-A MRSA §7732-A, sub-§10 is enacted to read:

10. Provider advisory board. Establish an advisory board consisting of representatives of catchment area service providers to advise the regional board on matters related to the provision of services to children and families within the region. Provider advisory boards must be established subject to rules established by the commissioner. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 7. 20-A MRSA §7733, first ¶, as amended by PL 1993, c. 625, §11, is further amended to read:

The Interdepartmental Coordinating Council for Early Intervention, as established in Title 5, section 12004-G, subsection 8-A, is established as an advisory body to the commissioner and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters regarding the coordination of policies and programs aimed at implementing the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. and 34 Code of Federal Regulations, 303.650 to 303.654, July 1993.

Sec. 8. Review provision of mandated services; private insurance. The Commissioner of Education shall establish a review committee to analyze the Maine Revised Statutes and rules adopted pursuant to the Maine Administrative Procedure Act and all federal laws and rules affecting the Child Development Services System, or "CDS," to determine which services provided by the system exceed the minimum federal requirements. The committee shall also analyze the use of private

insurance in paying for CDS services. The committee consists of one representative from the Department of Education, selected by the commissioner; one representative from the Interdepartmental Coordinating Council for Early Intervention, selected by the council; one CDS site director, selected by the site directors; one CDS board chair, selected by the board chairs; one service provider, selected by service providers; one parent of a child receiving CDS services, selected by the commissioner; one special education director employed by a school administrative unit, selected by the commissioner; one University of Maine System representative with expertise in special education, selected by the commissioner; one at-large representative, selected by the commissioner; and one Legislator appointed by the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters. If the review committee determines that current services exceed the minimum federal requirements, the committee shall include in its report necessary legislation to amend state law and rules to conform to and not exceed the minimum federal requirements. The committee may also include recommendations concerning use of private insurance. The committee shall submit its findings to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters by December 15, 1996.

Sec. 9. Review costs. The Commissioner of Education, with assistance from the Interdepartmental Coordinating Council for Early Intervention, shall establish a method to determine the cost of employing one or more professional therapists as an employee of a local site. Costs include all costs for salary, benefits, administration, occupancy, phone, travel, supplies, postage, billing, clerical assistance and any other cost as determined by the commissioner. The commissioner shall submit these findings to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters by December 15, 1996.

Sec. 10. Improve quality and consistency. The Interdepartmental Coordinating Council for Early Intervention, with assistance from the Department of Education, the regional sites and other interested groups and individuals, shall review and make recommendations for improvements in quality and consistency of service to children, families, service providers and others who participate in the Child Development Services System. The council shall submit its findings and any recommendations to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters by December 15, 1996.

See title page for effective date.

CHAPTER 663**H.P. 1359 - L.D. 1864****An Act to Facilitate the
Implementation of a Logo Sign
Program on the Interstate****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 23 MRSA §1912-B, first ¶,** as enacted by PL 1995, c. 416, §1, is amended to read:

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. Logo signs may be installed only on portions of the interstate highway that are rural in character. A logo sign may include only logos for gas, food, lodging and camping. Applications from at least 3 qualified businesses must be approved before installation of a logo sign panel at an exit. Logos for 2 or more types of service may be displayed on the same sign panel. More than one logo sign panel may be installed at an exit only when 3 or more qualified businesses are available for each of 2 or more types of service. The number of logo sign panels at an exit may not exceed one for each type of service or a total of 4 for all types of services.~~ 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~~ establish 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.

See title page for effective date.

CHAPTER 664**S.P. 770 - L.D. 1884****An Act to Reduce Costs for
Municipalities****Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and**Whereas,** it is in the best interest of the public to reduce the costs for municipalities; and**Whereas,** municipalities seek the highest return possible on investments and also require security of those investments; and**Whereas,** Maine law and prudent investment practices demand that public dollars be invested with minimum risk; and**Whereas,** Maine financial institutions seek to offer municipalities fair returns and all financial services, including so-called sweep accounts, that municipalities demand; and**Whereas,** the 117th Legislature passed legislation in 1995 attempting to modify certain municipal deposit perfection requirements in order to allow Maine financial institutions to offer sweep deposit products; and**Whereas,** the law needs one technical change in order to accomplish the goal intended by the First Regular Session of the 117th Legislature; and**Whereas,** without this change many of those financial institutions will not be able to offer municipal deposit services to their local municipalities and those local municipalities may not obtain the highest return possible on their investments; 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 §2642, sub-§1,** as amended by PL 1985, c. 479, §1, is further amended to read:

1. Municipal regulations authorized. The municipal officers of each municipality ~~shall have the authority,~~ after notice and public hearing, ~~to~~ may adopt regulations governing the surface uses of sources of public water supply, portions thereof or land overlying ground water aquifers and their recharge areas used as sources of public water supply; that are located within that municipality in order to protect the quality of such sources of public water supply ~~or~~ and the health, safety ~~or~~ and welfare of persons dependent upon such supplies.

At least 15 days prior to public hearings held ~~hereunder~~ under this section, notice of the hearing ~~shall~~ must be published in a newspaper of general circulation in the county in which the municipality is located and

~~shall be~~ mailed by ~~registered~~ certified mail to each owner of land bordering the source of public water supply within that municipality. Regulations adopted pursuant to this section ~~shall~~ become void upon the expiration of one year from the date of the adoption unless sooner ratified by vote of the legislative body of the municipality.

Sec. 2. 30-A MRSA §5706, sub-§2, as amended by PL 1995, c. 206, §1, is further amended to read:

2. Repurchase agreements. In repurchase agreements secured by obligations of the United States Government, as defined in section 5712, subsection 1, ~~provided that as long as~~ 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 pursuant to the provisions of Title 11, sections 8-313 and 8-321, except ~~that~~, if the term of the repurchase agreement is not in excess of ~~72~~ 96 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;

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

Effective April 10, 1996.

CHAPTER 665

H.P. 1280 - L.D. 1759

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

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 are due and payable on or immediately after July 1, 1996; 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 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		
Office of the Commissioner - Administrative and Financial Services		
Personal Services	\$2,000	
Provides for the appropriation of funds to meet a shortfall that results from a change in the benefit cost of an employee in the commissioner's office.		
Budget - Bureau of the		
Capital Expenditures	10,000	\$20,000
Provides for the appropriation of funds for the replacement of computers necessary to maintain the connection to the Wide Area Network.		
Buildings and Grounds Operations		
Personal Services	20,000	
Provides for the appropriation of funds for snow removal and other unanticipated emergencies.		
Buildings and Grounds Operations		
Personal Services	15,000	

Provides for the appropriation of funds for snow removal and other facilities' emergencies.

Buildings and Grounds Operations

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(18,985)	(40,034)

Provides for the deappropriation of funds through the transfer of one Engineering Technician IV position from the Buildings and Grounds Operations to the Division of Purchases where the position will be reorganized to meet operational needs.

Employee Relations - Office of

Personal Services	8,000	
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Provides for the appropriation of funds to cover an anticipated shortfall in this account. This additional need is funded from resources that currently exist within the department.

Financial and Personnel Services - Division of

All Other	379,500	
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Provides for the appropriation of funds for settling audit findings with the Federal Government. These findings result from the .9% plan adopted in Public Law 1991, chapter 780, and the use of health insurance premium dividends as required in Public Law 1993, chapter 6.

Public Improvements - Planning/Construction - Administration

Personal Services	(15,000)	
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Provides for the deappropriation of salary savings to help fund overtime for snow removal.

Purchases - Division of

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	18,985	40,034

Provides for the appropriation of funds to allow the Division of Purchases to fund one Contract Administration Specialist position. This position is necessary to implement guidance and review to agencies in performance-based contracting. Contracts and grants have doubled based on the new criteria for review.

Maine Residents Property Tax Program

All Other	(37,128)	(37,128)
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Provides for the deappropriation of funds through the reduction of controllable administrative expenses.

Taxation - Bureau of

Personal Services	(30,000)	
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Provides for the deappropriation of funds in order to fund unanticipated shortfalls in the Commissioner's Office and Bureau of Employee Relations and to fund overtime for snowplowing in the Buildings and Grounds Operations program.

Taxation - Bureau of

Personal Services	(12,730)	(32,656)
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Provides for the deappropriation of funds earmarked for 9 reclassifications approved in Public Law 1995, chapter 368. The Bureau of Taxation will implement one reclass with this funding, with the remaining surplus to be transferred to fund computer replacements in the Bureau of the Budget and to implement 2 reclassifications in the

Bureau of Accounts and Control.			DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES		
Telecommunications Fund			TOTAL	401,698	(419,798)
All Other	(200,000)		AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Provides for the deappropriation of funds as a result of the negotiations related to the past due Nynex billings.			Agricultural Production		
Public Improvements - Planning/Construction - Administration			Positions - Legislative Count		(1.0)
Personal Services	135,642		Positions - Other Count	(-1.0)	(-1.0)
Provides for the appropriation of funds for an Architect position and a Civil Engineer IV position in the Other Special Revenue account in this program. This is temporary funding for positions that serve schools and school administrative units.			Personal Services	(20,000)	15,000
Risk Management - Operations			All Other		21,700
All Other	126,414		TOTAL	(20,000)	36,700
Provides for the appropriation of funds as reimbursement for claims paid as a result of the settlement of a lawsuit against the State.			Provides for the appropriation of funds through the transfer of one seasonal Veterinarian position to the Harness Racing Commission in fiscal year 1995-96, and provides for contracting for veterinarian services in fiscal year 1996-97 and for increasing one seasonal Veterinarian position to one full-time Veterinarian position in fiscal year 1996-97.		
Buildings and Grounds Operations			Harness Racing Commission		
All Other	(125,000)		Personal Services	(24,500)	
Provides for the deappropriation of funds due to the availability of Stripper Well Funds to support energy-related costs.			All Other	44,500	(36,700)
Public Improvements - Planning/Construction - Administration			TOTAL	20,000	(36,700)
All Other	(245,014)		Provides for the appropriation of funds to maintain contractual veterinarian services in fiscal year 1995-96 in the Harness Racing Commission, and transfers funds in fiscal year 1996-97 to the Bureau of Production to fund contractual veterinarian services and to increase one seasonal full-time Veterinarian position to one full-time Veterinarian position.		
Provides for the deappropriation of funds due to the availability of Stripper Well Funds to support energy-related costs.			Marketing Services - Agriculture		
			All Other	49,623	
			Provides for the appropriation of funds to meet the final cost of the		

Potato Market Advisory Newsletter.			protective and related proceedings. These positions, or their equivalent, must be dedicated to increasing the current level of attorney activity related to child protective and related cases.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES					
TOTAL		49,623			
ATTORNEY GENERAL, DEPARTMENT OF THE					
Administration - Attorney General			DEPARTMENT OF THE ATTORNEY GENERAL		
			TOTAL	29,000	123,447
Personal Services	(40,000)		CONSERVATION, DEPARTMENT OF		
All Other	184,000		Administration - Forestry		
TOTAL	144,000		Personal Services	(2,000)	
Provides for the appropriation of funds through a transfer of salary savings to All Other for the purpose of paying one-time All Other expenses.			Provides for the deappropriation of funds from salary savings.		
District Attorneys' Salaries			Forest Fire Control - Division of		
Personal Services	(100,000)		Positions - Legislative Count	(3.0)	(3.0)
Provides for the deappropriation of funds through the transfer of salary savings to the administration account for the purpose of paying one-time All Other expenses.			Positions - Other Count	(-4.0)	(-4.0)
			Provides for the elimination of one seasonal Radio Operator position and the upgrade of 3 seasonal Radio Operator positions to full-time Radio Operator positions resulting in no fiscal impact.		
Human Services Division			Forest Fire Control - Division of		
Personal Services	(15,000)		Personal Services	(130,000)	
Provides for the deappropriation of funds through the transfer of salary savings to the administration account for the purpose of paying one-time All Other expenses.			Provides for the deappropriation of funds from salary savings.		
			Forest Management, Utilization and Marketing		
Human Services Division			Personal Services	(15,000)	
Positions - Legislative Count	(2.5)		Provides for the deappropriation of funds from salary savings.		
Personal Services	110,957		Geological Survey		
All Other	8,590		Personal Services	(13,409)	
Capital Expenditures	3,900		Provides for the deappropriation of funds from salary savings.		
TOTAL	123,447		Land Use Regulation Commission		
Provides for the appropriation of funds for 2.5 Assistant Attorney General positions and related costs for child			Personal Services	(30,000)	

Provides for the deappropriation of funds from salary savings.			Administration - Defense and Veterans' Services		
Parks - General Operations			Personal Services (12,000)		
Personal Services (144,491)			Provides for the deappropriation of funds from salary savings to meet current needs in the Military Training and Operations program.		
Provides for the deappropriation of funds from salary savings.			Administration - Maine Emergency Management Agency		
DEPARTMENT OF CONSERVATION TOTAL	(334,900)	-0-	Personal Services (25,900)		
CORRECTIONS, DEPARTMENT OF			Provides for the deappropriation of funds from salary savings to meet current needs in the Military Training and Operations program.		
State Prison			Disaster Assistance		
Positions - Legislative Count (1.0) (1.0)			All Other 211,522		
Personal Services 36,405 37,766			Provides for the appropriation of funds for reimbursement of the State's matching portion of local disaster relief.		
Provides for the appropriation of funds to reinstate one Community Program Coordinator position to correct a position action in Public Law 1995, chapter 368, Part B.			Military Training and Operations		
Warren Correctional Facility			Personal Services (103,000)		
Positions - Legislative Count (-1.0) (-1.0)			All Other 174,100		
Personal Services (36,405) (37,766)			TOTAL 71,100		
Provides for the deappropriation of funds through the elimination of one Correctional Caseworker position to correct a position action in Public Law 1995, chapter 368, Part B.			Provides for the appropriation of funds for utility expenses and maintenance in state buildings.		
Maine State Prison			Veterans' Memorial Cemetery		
Positions - Legislative Count (5.5) (5.5)			Personal Services (3,000)		
Personal Services 62,333 187,000			Provides for the deappropriation of funds from salary savings to meet current needs in the Military Training and Operations program.		
Provides for the appropriation of funds for 5 full-time and one part-time Guard positions to open dorms at the Maine State Prison.			Veterans Services		
DEPARTMENT OF CORRECTIONS TOTAL	62,333	187,000	Personal Services (27,000)		
DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF			Provides for the deappropriation of funds from salary savings to meet current needs in the		

Military Training and Operations program.			from the Task Force on Learning Results.		
Special Veterans Services			STATE BOARD OF EDUCATION		
Personal Services	(3,200)		TOTAL	-0-	(185,000)
Provides for the deappropriation of funds from salary savings to meet current needs in the Military Training and Operations program.			EDUCATION, DEPARTMENT OF		
			Educational Restructuring and Improvements		
			All Other	(398,000)	(440,000)
			Provides for the deappropriation of funds to meet the current needs in the Preschool Handicapped program.		
DEPARTMENT OF DEFENSE AND VETERANS' SERVICES			Preschool Handicapped		
TOTAL	211,522		All Other	398,000	440,000
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			Provides for the appropriation of funds for direct service to eligible children.		
Office of Tourism			Governor Baxter School for the Deaf		
All Other		500,000	Personal Services	(150,000)	
Provides for the appropriation of funds for the implementation of the 5-year tourism and marketing development strategy, which includes marketing and regional tourism development initiatives.			Provides for the deappropriation of funds from excess salary savings.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			Governor Baxter School for the Deaf		
TOTAL	-0-	500,000	All Other		53,000
EDUCATION, STATE BOARD OF			Provides for the appropriation of funds through a transfer from the Rehabilitation Services program. The Governor Baxter School for the Deaf will provide services for the hearing-impaired school-aged children.		
State Board of Education			Preschool Handicapped		
All Other		(85,000)	All Other		76,600
Provides for the deappropriation of funds used for the activities of the Task Force on Learning Results. These funds will be used for activities pertaining to essential programs and services and school consolidation.			Provides for the appropriation of funds through a transfer from the Rehabilitation Services program. The Preschool Handicapped program will be providing services for 0 to 5-year-		
State Board of Education					
All Other		(100,000)			
Provides for the deappropriation of funds					

old hearing-impaired children.			TOTAL	(1,713,911)
Rehabilitation Services			Provides for the deappropriation of funds through a transfer to the new Land and Water Quality Control program. Position actions are on file in the Bureau of the Budget.	
All Other	(129,600)			
Provides for the deappropriation of funds through a transfer to Governor Baxter School for the Deaf and Preschool Handicapped. These programs will provide services for hearing-impaired children.			Land and Water Quality Control	
			Positions - Legislative Count	(48.0)
			Positions - Other Count	(0.5)
			Personal Services	2,384,225
			All Other	608,585
Restructuring and Improvements - Education			TOTAL	2,992,810
All Other	(100,000)		Provides for the appropriation of funds for the merger of the Land Quality Control program and Water Quality Control program into the new Land and Water Quality Control program. Position actions are on file in the Bureau of the Budget.	
Provides for the deappropriation of funds from innovative grants. These funds will be transferred to the Professional Renewal program for 2 pilot sites in the regional business services effort.			Water Quality Control	
			Positions - Legislative Count	(-18.0)
			Positions - Other Count	(-0.5)
			Personal Services	(895,159)
			All Other	(383,740)
DEPARTMENT OF EDUCATION			TOTAL	(1,278,899)
TOTAL	(150,000)	(100,000)	Provides for the deappropriation of funds through a transfer to the new Land and Water Quality Control program. Position actions are on file in the Bureau of the Budget.	
ENVIRONMENTAL PROTECTION, DEPARTMENT OF			Land and Water Quality Control	
Administration - Environmental Protection			All Other	285,000
Personal Services	(2,087)	(9,215)	Provides for the appropriation of funds for the collection and analysis of samples to determine human and ecological risks from toxic contaminants in fresh water and marine	
All Other	2,087	9,215		
TOTAL	-0-	-0-		
Provides for the appropriation of funds through a line category transfer for the reorganization of one Director, Bureau of Administration position from range 88 to range 34 to more accurately reflect job responsibilities and for increased software licensing fees.				
Land Quality Control				
Positions - Legislative Count		(-30.0)		
Personal Services		(1,489,066)		
All Other		(224,845)		

ecosystems throughout the State.			fiscal years 1995-96 and 1996-97.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION			Aid to Families with Dependent Children		
TOTAL	-0-	285,000	All Other	(1,694,146)	(2,173,192)
EXECUTIVE DEPARTMENT			Provides for the deappropriation of funds based on incentive funds carried over from fiscal year 1994-95 and anticipated incentive funds during fiscal year 1995-96.		
Office of Substance Abuse - Medicaid Seed			Child Welfare Services		
All Other	50,000	150,000	All Other	1,251,577	1,240,301
Provides for the appropriation of funds to meet the Medicaid seed portion for contracted providers.			Provides for the appropriation of funds due to an anticipated shortfall based on expenditure projections.		
Office of Substance Abuse			General Assistance - Reimbursement to Cities and Towns		
All Other	(50,000)	(150,000)	All Other		(200,000)
Provides for the deappropriation of funds in order to establish a Medicaid seed account.			Provides for the deappropriation of funds due to the availability of Stripper Well Funds to support energy-related costs.		
EXECUTIVE DEPARTMENT TOTAL	-0-	-0-	Health - Bureau of		
HUMAN SERVICES, DEPARTMENT OF			All Other	(4,000)	
Administration - Regional - Human Services			Capital Expenditures	4,000	
All Other	504,000	504,000	TOTAL	-0-	
Provides for the appropriation of funds due to anticipated shortfall based on expenditure projections.			Provides for the appropriation of funds through a line category transfer to purchase capital equipment in the eating and lodging program.		
Administration - Income Maintenance			Income Maintenance - Regional		
Positions - Legislative Count	(2.0)	(2.0)	Positions - Legislative Count	(-2.0)	(-2.0)
Personal Services	70,252	70,500	Personal Services	(70,252)	(70,500)
Provides for the appropriation of funds for the transfer of 2 Fraud Investigator positions from the Regional Income Maintenance program.			Provides for the deappropriation of funds through the transfer of 2 Fraud Investigator positions to the fraud investigation recovery unit of the Administration		
Aid to Families with Dependent Children					
All Other	(1,900,000)	(1,000,000)			
Provides for the deappropriation of funds based on anticipated incentive revenues during					

and Income Maintenance program.			Provides for the appropriation of funds for respite, adult day care, homemaker and ombudsman services, and renovation of adult family care homes and day care sites.		
Medical Care - Payments to Providers					
All Other	(21,545,436)	(21,499,397)			
Provides for the deappropriation of funds based on estimated expenditure projections for fiscal years 1995-96 and 1996-97.			Congregate Housing Services		
			All Other		750,000
			Provides for the appropriation of funds for supportive services for residents of low to moderate income assisted living apartments.		
Medical Care Administration			Home Based Care		
Capital Expenditures	37,500	76,500	All Other	100,000	2,750,000
Provides for the appropriation of funds for capital equipment needed to support managed care and the Medicaid Management Information System (MMIS) development.			Provides for the appropriation of funds for direct services under the Home Based Care program.		
Medical Care Administration			Intermediate Care - Payments to Providers		
All Other	27,750	27,750	All Other		(1,720,000)
Provides for the appropriation of funds for actuarial and other technical assistance needed to implement managed care.			Provides for the deappropriation of funds based on savings from long-term care initiatives.		
State Supplement to Federal Supplemental Security Income			Medical Care - Payments to Providers		
All Other	1,728,891	3,728,891	All Other		(400,000)
Provides for the appropriation of funds due to an anticipated shortfall based on expenditure projections.			Provides for the deappropriation of funds due to an anticipated reduction in transportation costs.		
Aid to Families with Dependent Children - Foster Care			Medical Care - Payments to Providers		
All Other	587,018	990,771	All Other	(90,000)	(370,000)
Provides for the appropriation of funds to cover an anticipated shortfall in the Aid to Families with Dependent Children - Foster Care account.			Provides for the deappropriation of funds based on date-specific eligibility.		
Bureau of Elder and Adult Services			Medical Care - Payments to Providers		
All Other	150,000	713,605	All Other		(631,000)
			Provides for the deappropriation of funds based on reduction of		

medical costs from a personal health advisor 1-800 telephone line.			Provides for the appropriation of funds to cover an anticipated shortfall in fiscal year 1995-96.		
Medical Care - Payments to Providers			State Supplement to Federal Supplemental Security Income		
All Other	(190,000)	(1,140,000)	All Other	1,536,353	3,238,950
Provides for the deappropriation of funds based on reduction of medical costs from automating 3rd-party liability.			Provides for the appropriation of funds for residential care services for persons awaiting discharge from nursing facilities or diverted from nursing facility placement.		
Medical Care - Payments to Providers			Welfare Employment, Education and Training		
All Other	(22,800)	(68,400)	All Other	(8,000)	(8,000)
Provides for the deappropriation of funds based on reduction of medical costs from automating claims.			Provides for the deappropriation of funds due to a reduction in the ASPIRE contract.		
Medical Care - Payments to Providers			Aid to Families with Dependent Children - Foster Care		
All Other		(750,000)	All Other		225,013
Provides for the deappropriation of funds due to a new 25¢ processing service fee per prescription dispensed under the Medicaid program as authorized in Maine Revised Statutes, Title 22, section 3174-P.			Provides for the appropriation of funds for the additional estimated number of children to be served as a result of child welfare initiatives in fiscal year 1996-97.		
Medical Care - Payments to Providers			Child Welfare Services		
All Other		(500,000)	All Other		374,032
Provides for the deappropriation of funds based on reduction of medical costs from Medicaid Fraud Prevention.			Provides for the appropriation of funds for the additional estimated number of children to be served as result of a child welfare initiatives in fiscal year 1996-97.		
Purchased Social Services			Medical Care - Payments to Providers		
All Other	(200,000)	(80,000)	All Other		(7,912,707)
Provides for the deappropriation of funds from the recoupment of outstanding audits.			Provides for the deappropriation of funds based on estimated expenditure projections.		
State Supplement to Federal Supplemental Security Income			DEPARTMENT OF HUMAN SERVICES		
All Other	1,078,159		TOTAL	(18,649,134)	(23,832,883)

**INLAND FISHERIES AND
WILDLIFE, DEPARTMENT
OF****ATV Safety and Educational
Program**

Positions - Legislative Count	(-1.0)	
Personal Services	(37,695)	

Provides for the deappropriation of funds from the elimination of one Recreation Safety Coordinator position.

**Enforcement Operations -
Inland Fisheries and Wildlife**

Positions - Legislative Count	(1.0)	
Personal Services	26,477	
All Other	11,218	

TOTAL	37,695	
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Provides for the appropriation of funds for 57% of the salary and benefits of one Director of the Division of Safety, Recreation and Education position. The balance of the funding is in the Whitewater Rafting - Inland Fisheries and Wildlife program, Other Special Revenue and the Enforcement Operations - Inland Fisheries and Wildlife program, Federal Expenditures Fund.

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

-0-	-0-
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JUDICIAL DEPARTMENT**Courts - Supreme, Superior,
District and Administrative**

All Other	631,737	
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Provides for the appropriation of funds for a projected shortfall in All Other expenditures. The needs include medical services, witness, investigation, transcript and subpoena fees and indigent defense.

**JUDICIAL DEPARTMENT
TOTAL**

-0-	631,737
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LABOR, DEPARTMENT OF**Job Training Partnership
Program**

Personal Services	(406)	(360)
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Provides for the deappropriation of funds from salary savings.

Star

Personal Services	(2,473)	(1,728)
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Provides for the deappropriation of funds from salary savings.

Star

Personal Services	(97,176)	
All Other	97,176	

TOTAL	-0-	
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Provides for the appropriation of funds through a line category transfer in order to reflect the distribution methodology outlined in the enabling legislation.

**DEPARTMENT OF LABOR
TOTAL**

(2,879)	(2,088)
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**MARINE RESOURCES,
DEPARTMENT OF****Administration - Marine
Resources**

Positions - Legislative Count	(-1.0)	(-1.0)
Personal Services	(30,059)	(59,345)
All Other	(5,900)	(11,800)

TOTAL	(35,959)	(71,145)
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Provides for the deappropriation of funds from the transfer of one Director, Marketing Marine Resources position to the Bureau of Marine Development and the downgrade of one Accountant I position to one Account Clerk II position.

**Administration - Marine
Resources**

All Other	25,000	25,000
Capital Expenditures	19,000	19,000

TOTAL	44,000	44,000
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Provides for the appropriation of funds through a transfer from the Bureau of Marine Sciences in order to internally fund the maintenance of the department's computer systems.

Marine Development - Bureau of

Positions - Legislative Count	(1.0)	(1.0)
Personal Services	30,059	59,345
All Other	5,900	11,800
TOTAL	35,959	71,145

Provides for the appropriation of funds for the transfer of one Director, Marketing Marine Resources position from Administration - Marine Resources program; and the downgrade of one Director, Bureau of Marine Development position to one Marine Resource Scientist IV position.

Marine Development - Bureau of

Positions - Legislative Count	(-1.0)	(-1.0)
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Provides for the transfer of one Senior Seafood Technologist position to the Bureau of Marine Sciences. The appropriation was transferred in error in Public Law 1995, chapter 502.

Marine Development - Bureau of

Personal Services	(15,260)
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Provides for the deappropriation of funds resulting from savings accumulated by a delay in hiring 2 positions.

Marine Patrol - Bureau of

Personal Services	(73,962)
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Provides for the deappropriation of funds

resulting from savings accumulated by a delay in hiring.

Marine Sciences - Bureau of

Positions - Legislative Count	(1.0)	(1.0)
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Provides for the transfer of one Senior Seafood Technologist position from the Bureau of Marine Development; the downgrade of one Marine Resource Scientist I position to one Marine Resource Specialist II position and the downgrade of 2 Marine Resource Scientist IV positions to one Marine Resource Scientist II and one Marine Resource Scientist III position. No additional appropriation is required due to an error in Public Law 1995, chapter 502.

Marine Sciences - Bureau of

Personal Services	(5,643)
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Provides for the deappropriation of funds resulting from savings accumulated by a delay in hiring.

Marine Sciences - Bureau of

All Other	(25,000)	(25,000)
Capital Expenditures	(19,000)	(19,000)
TOTAL	(44,000)	(44,000)

Provides for the deappropriation of funds through a transfer to Administration - Marine Resources in order to internally fund the maintenance of the department's computer systems.

DEPARTMENT OF MARINE RESOURCES

TOTAL	(94,865)	-0-
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MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF

Administration - Mental Health and Mental Retardation

All Other		200,000	Bangor Mental Health Institute		
Provides for the appropriation of funds through a transfer from the Mental Health Services - Community account to cover costs associated with departmentwide training and certification.			Positions - Legislative Count	(-16.0)	(-16.0)
			Personal Services	(76,138)	(621,616)
			All Other	(32,073)	(130,364)
			TOTAL	(108,211)	(751,980)
Administration - Mental Health and Mental Retardation			Provides for the deappropriation of funds through the elimination of 7 Mental Health Worker I positions, one Nurse III position, one Team Leader position, one Licensed Practical Nurse position, 3 Assistant Team Leader positions, one Habilitation Aide position, one part-time Psychiatric Social Worker I position, one Institutional Custodial Worker position and one part-time Ward Clerk position due to closing the last nursing home ward. This will result in a loss of General Fund undedicated revenue of \$86,638 in fiscal year 1995-96 and \$500,000 in fiscal year 1996-97.		
Personal Services	(60,000)				
All Other	(27,891)				
TOTAL	(87,891)				
Provides for the deappropriation of funds due to salary savings and a less-than-anticipated need for contracted services.					
Bangor Mental Health Institute			Disproportionate Share - Bangor Mental Health Institute		
Positions - Legislative Count	(-9.0)	(-9.0)	Personal Services	65,024	120,759
Personal Services	(308,450)	(345,598)	Provides for the appropriation of funds for the General Fund match on 9 positions transferred to the Other Special Revenue account.		
All Other	(31,000)	(118,500)			
TOTAL	(339,450)	(464,098)	Disproportionate Share - Bangor Mental Health Institute		
Provides for the deappropriation of funds from the transfer of 5 Mental Health Worker I positions, 2 Mental Health Worker II positions, one Assistant Team Leader position and one Habilitation Aide position to the Bangor Mental Health Institute, Other Special Revenue account as a result of the closure of 2 halfway houses.			All Other	(10,973)	
Bangor Mental Health Institute			Capital Expenditures	10,973	
Positions - Legislative Count	(-2.0)	(-2.0)	TOTAL	-0-	
Personal Services	(14,242)	(73,056)	Provides for the appropriation of funds through a line category transfer to purchase automated time clocks, a medical records scanner and computer hardware for a local area network system. Savings are from food costs due to a declining census.		
Provides for the deappropriation of funds through the transfer of one Clerk Typist II position and one Painter position to the Bangor Mental Health Institute, Other Special Revenue account as a result of downsizing.					

**Disproportionate Share -
Bangor Mental Health Institute**

Personal Services 5,227 26,812

Provides for the appropriation of funds for the state match on one Clerk Typist II position and one Painter position transferred to the Other Special Revenue account.

**Disproportionate Share -
Bangor Mental Health Institute**

Personal Services (303,808)
All Other (57,256)

TOTAL (361,064)

Provides for the deappropriation of funds from the reduction in General Fund match associated with the elimination of 23.5 positions as a result of the downsizing of the Bangor Mental Health Institute.

**Disproportionate Share -
Bangor Mental Health Institute**

All Other (100,000)

Provides for the deappropriation of funds due to the less-than-anticipated cost associated with Sta-CAP.

**Medicaid Services - Mental
Retardation**

All Other 3,052,752

Provides for the appropriation of funds to cover higher-than-budgeted costs associated with community placement as a result of the downsizing of Pineland Center.

**Medicaid Services - Mental
Retardation**

All Other 695,080

Provides for the appropriation of funds for housing, day habilitation and employment services mandated by the

Community Consent Decree.

**Medicaid Services - Mental
Retardation**

All Other 111,004

Provides for the appropriation of funds for waiver slots in the home-based and community-based waiver program for 3 individuals with mental retardation.

**Mental Health Services - Child
Medicaid**

All Other 400,000 434,061

Provides for the appropriation of funds to cover costs associated with a growth in mental health clinic services to children and their families and for residential services for children with mental retardation.

**Mental Health Services -
Community Medicaid**

All Other 283,441 1,002,627

Provides for the appropriation of funds from savings associated with Bangor Mental Health Institute downsizing, closure of halfway houses and the transfer of 2 positions from the General Fund to the Other Special Revenue account for community development.

**Mental Health Services -
Children**

All Other 36,758 36,758

Provides for the appropriation of funds to cover costs associated with wraparound services for children with mental retardation.

**Mental Health Services -
Children**

All Other (434,061)

Provides for the deappropriation of funds through a transfer to the Mental Health Services - Children Medicaid account as a result of growth in mental health clinic services to children and their families and residential services for children with mental retardation.		Provides for the deappropriation of funds due to salary savings.	
Mental Health Services - Community		Administration - Mental Health and Mental Retardation	
All Other	(200,000)	Personal Services	(5,000)
Provides for the deappropriation of funds through a transfer to the central office account to cover costs associated with departmentwide training and certification.		Provides for the deappropriation of funds from salary savings.	
Mental Health Services - Community		Disproportionate Share - Augusta Mental Health Institute	
All Other		Personal Services	(356,914)
		All Other	356,914
		TOTAL	-0-
		Provides for the transfer of funds from Personal Services to All Other in order to fund the shortfall in contractual services for physician coverage.	
Mental Health Services - Community		Office of Advocacy - Mental Health and Mental Retardation	
All Other	(20,196)	All Other	5,000
Provides for the deappropriation of funds due to the less-than-anticipated cost of the diversion program.		Provides for the appropriation of funds for telephone and travel expenditures.	
Mental Retardation Services - Community		Administration - Mental Health and Mental Retardation	
All Other	(36,758)	Positions - Legislative Count	(8.0)
		Personal Services	380,800
Provides for the deappropriation of funds to meet additional costs for wraparound services for children with mental retardation that were moved to the Mental Health Services - Children program.		Provides for the appropriation of funds to conduct class member assessments and create 8 Consent Decree Monitor positions. This will result in an increase in General Fund undedicated revenue of \$34,272 in fiscal year 1996-97.	
Mental Retardation Services - Community		Consent Decree Reinvestment Program - Mental Health	
All Other	200,000	All Other	(416,564) (543,677)
Provides for the appropriation of funds for dental services mandated by the Community Consent Decree.		Provides for the deappropriation of funds from the Consent Decree Reinvestment - Mental Health account to reflect the redistribution of the funds to other Mental	
Mental Retardation Services - Community			
Personal Services	(107,392)		

Health accounts in order to meet requirements of the AMHI Consent Decree.		meet the needs of persons with Axis II diagnoses, co-occurring addictive disorders and others. Creates 60 Intensive Case Manager positions. This will result in an increase in General Fund undedicated revenue of \$300,000 in fiscal year 1996-97.		
Disproportionate Share - Augusta Mental Health Institute		Mental Health Services - Community		
All Other	(62,464)	Positions - Legislative Count	(3.0)	
Provides for the deappropriations of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.		Personal Services	115,500	
		All Other	504,285	
Disproportionate Share - Bangor Mental Health Institute		TOTAL		619,785
All Other	(66,646)	Provides for the appropriation of funds to create 3 Utilization Review Nurse positions and complete development of emergency involuntary bed capacity for a total of 36 beds.		
Provides for the deappropriation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.		Mental Health Services - Community		
Medicaid Services - Mental Retardation		All Other	150,000	
All Other	(316,127)	Provides for the appropriation of funds to expand available transportation capacity in each of the 3 regions.		
Provides for the deappropriation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.		Mental Health Services - Community		
Mental Health Services - Child Medicaid		Positions - Legislative Count	(1.0)	(1.0)
All Other	(32,879)	Personal Services	12,000	70,000
Provides for the deappropriation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.		All Other	10,000	30,000
Mental Health Services - Community		TOTAL	22,000	100,000
Positions - Legislative Count	(60.0)	Provides for the appropriation of funds to create a Manager-Medicaid Managed Care position and contract for managed care consulting services.		
Personal Services	1,185,000	Mental Health Services - Community		
All Other	90,000	Positions - Legislative Count	(2.5)	
TOTAL	1,275,000	Personal Services	158,000	
Provides for the appropriation of funds to establish a state-operated intensive case management system to		All Other	697,654	

TOTAL	855,654	Mental Health Services - Community Medicaid		
Provides for the appropriation of funds to develop community resources for 47 long-stay patients in fiscal year 1996-97 and create 2 Placement Coordinator positions and one part-time Psychiatrist position.		All Other		(133,283)
		Provides for the deappropriation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.		
Mental Health Services - Community Medicaid		DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION		
All Other	300,000	TOTAL	2,792,831	8,405,380
Provides for the appropriation of funds to expand the Partners program which would support a variety of housing options that can accommodate varying levels of supportive assistance to clients.		MUSEUM, MAINE STATE		
Mental Health Services - Community Medicaid		Exhibit Design and Preparation - Museum		
All Other	782,028	Personal Services	4,678	8,146
Provides for the appropriation of state matching funds to create an integrated system of crisis services.		Provides for the appropriation of funds for the reclassification as a result of a reorganization of one Museum Specialist I position to one Museum Specialist II position.		
Mental Health Services - Community Medicaid		Research and Collection - Museum		
All Other	1,499,355	Personal Services	(4,678)	(8,146)
Provides for the appropriation of funds to complete development of emergency involuntary bed capacity for a total of 36 beds.		Provides for the deappropriation of funds through the downgrade of one Museum Specialist III position to one Museum Specialist II position, to fund an approved reclassification in the Exhibit Design and Preparation program of one Museum Specialist I position to one Museum Specialist II position.		
Mental Health Services - Community Medicaid		MAINE STATE MUSEUM TOTAL	-0-	-0-
All Other	158,333	PUBLIC SAFETY, DEPARTMENT OF		
Provides for the appropriation of state matching funds to develop community resources for 47 AMHI long-stay patients in fiscal year 1996-97 and for 19 AMHI long-stay patients in fiscal year 1995-96.	3,091,750	Emergency Medical Services		
		Capital Expenditures	(38,692)	
		Provides for the deappropriation of funds for the replacement of one emergency medical services training vehicle.		

Liquor Enforcement

Personal Services (20,000)

Provides for the deappropriation of funds from salary savings to transfer to the Maine Drug Enforcement Agency in order to meet mandatory separation payments.

Maine Drug Enforcement Agency

Personal Services 20,000

Provides for the appropriation of funds from mandatory separation payments to employees whose positions were eliminated in Public Law 1995, chapter 368.

DEPARTMENT OF PUBLIC SAFETY

TOTAL (38,692)

TRANSPORTATION, DEPARTMENT OF**Transportation Services**

All Other (213,060)

Provides for the deappropriation of funds due to the availability of Stripper Well Funds to support public transportation programs.

DEPARTMENT OF TRANSPORTATION

TOTAL (213,060)

TREASURER OF STATE, (OFFICE OF)**Debt Service - Treasury**

All Other (888,048)

Provides for the deappropriation of funds through the transfer of funds to the Debt Service account from the Debt Service Earnings account. This deappropriation and transfer are possible because of unspent bond proceeds available from completed Department of Economic and

Community Development bonded projects.

(OFFICE OF) TREASURER OF STATE

TOTAL (888,048)

SECTION A-1

TOTAL APPROPRIATIONS (16,611,511) (14,620,265)

Sec. A-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

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**Motor Vehicle Building Maintenance**

Personal Services 5,000

Provides for the allocation of funds to meet a shortfall caused in part by unanticipated overtime and bumping.

Transportation Building Maintenance

Personal Services (5,000)

Provides for the deallocation of funds from salary savings and transfers to the Motor Vehicles Building Maintenance program. The transfer of the salary savings will not adversely affect this account.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TOTAL -0- -0-

SECTION A-2

TOTAL ALLOCATIONS -0- -0-

Sec. A-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

CORRECTIONS, DEPARTMENT OF**Administration - Corrections**

Personal Services 6,240 7,705

All Other	(6,240)	(7,705)	All Other	6,659	6,619
TOTAL	-0-	-0-	Provides for the allocation of funds in All Other through increased funding for math and science, and for Drug Free Schools.		
Provides for the allocation of funds through a line category transfer to cover increased salary and related personal services costs.			Division of Higher Education		
DEPARTMENT OF CORRECTIONS			Personal Services	(23,438)	(23,831)
TOTAL	-0-	-0-	All Other	(99,713)	(114,946)
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF			TOTAL	(123,151)	(138,777)
Community Development Block Grant Program			Provides for the deallocation of funds for the state postsecondary review entity account. These federal grant funds were eliminated July 27, 1995.		
All Other	17,335	52,009	Preschool Handicapped		
Provides for the allocation of funds from the federal Housing and Urban Development (HUD) grant for technical assistance to communities.			All Other		992,433
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT			Provides for the allocation of funds for an additional award of federal grants to be used for direct service to eligible children.		
TOTAL	17,335	52,009	Division of Special Services		
EDUCATION, DEPARTMENT OF			All Other	800,000	800,000
Division of Adult Education			Provides for the allocation of funds for available grant carry-over not previously disbursed due to the late filing of cash management reports by subrecipients and due to a delay in their filing of a new consolidated grant application.		
All Other	(104,686)	(208,000)	Division of Special Services		
Provides for the deallocation of funds for grants.			All Other	1,273,151	1,261,670
Education in Unorganized Territory			Provides for the allocation of funds for an unanticipated increase in the funding level to the State for individuals with disabilities and allows for the transfer of funds to state-operated schools.		
Positions - Other Count	(-0.5)	(-0.5)	Division of Special Services		
Personal Services	(13,615)	(14,630)	Positions - Other Count		(-2.5)
Provides for the deallocation of funds through the elimination of one 1/2-time Teacher Aide position due to a reduction in available funding from the Title I program.			Personal Services		(110,000)
Education in Unorganized Territory			Provides for the deallocation of funds from		

the transfer of one
1/2-time Education
Specialist III position and
2 Education Specialist II
positions effective
October 30, 1996 from the
Division of Instruction -
Drug Free School -
Training Personnel.

Division of Special Services

Positions - Other Count (2.5)
Personal Services 110,000

Provides for the allocation
of funds for the transfer of
one 1/2-time Education
Specialist III position and
2 Education Specialist II
positions effective
October 30, 1996 from the
Division of Instruction -
IDEA Part B, School Age.

DEPARTMENT OF EDUCATION TOTAL

1,838,358 2,699,315

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality Control

Positions - Other Count (-1.0)
Personal Services (35,679)
All Other (892)

TOTAL (36,571)

Provides for the
deallocation of funds
through the transfer of
one Data Control
Specialist position and
related costs to the
Administration -
Environmental Protection
program, Other Special
Revenue.

Municipal Sewerage Construction

Positions - Other Count (-4.0) (-4.0)
Personal Services (54,723) (207,777)
All Other (1,368) (5,194)

TOTAL (56,091) (212,971)

Provides for the
deallocation of funds
through the transfer of
one Planning and
Research Assistant

position, one Assistant
Environmental Engineer
position, one Senior
Environmental Engineer
position and one
Environmental Engineer
Services Manager
position to this same
program, Other Special
Revenue in the last
quarter of fiscal year
1995-96; the transfer of
one Environmental
Specialist IV position and
one Senior Environmental
Engineer position to the
Water Quality Control
program, Federal
Expenditures Fund in
fiscal year 1996-97; and
the transfer of one
Environmental Engineer
Services Manager
position and one
Environmental Specialist
IV position from the
Water Quality Control
program, Federal
Expenditures Fund in
fiscal year 1996-97.

Oil and Hazardous Materials Control

Positions - Other Count (-2.0) (-2.0)
Personal Services (19,532) (89,176)
All Other (488) (2,229)

TOTAL (20,020) (91,405)

Provides for the
deallocation of funds
through the transfer of 2
Environmental Specialist
II positions to the Oil and
Hazardous Materials
Control program, Other
Special Revenue.

Oil and Hazardous Materials Control

Positions - Other Count (-1.0) (-1.0)
Personal Services (9,219) (40,280)
All Other (230) (1,007)

TOTAL (9,449) (41,287)

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.			Provides for the deallocation of funds through the transfer of funds to state-operated schools.		
Water Quality Control					
Positions - Other Count	(-2.0)		EXECUTIVE DEPARTMENT		
Personal Services	(112,856)		TOTAL	(2,915)	695,167
All Other	(2,821)				
			HUMAN RIGHTS		
TOTAL	(115,677)		COMMISSION, MAINE		
Provides for the deallocation of funds through the transfer of one Environmental Engineer Services Manager position and one Environmental Specialist IV position to the Municipal Sewerage Construction program, Federal Expenditures Fund.			Human Rights Commission - Regulation		
			Positions - Other Count		(0.5)
			Personal Services		7,864
			Provides for the allocation of funds to increase the number of hours of one part-time Clerk Typist II position from 20 hours to 30 hours for fiscal year 1996-97.		
Water Quality Control			MAINE HUMAN RIGHTS		
Positions - Other Count	(2.0)		COMMISSION		
Personal Services	118,527		TOTAL		7,864
All Other	2,963		HUMAN SERVICES, DEPARTMENT OF		
			Administration - Regional - Human Services		
TOTAL	121,490		All Other	696,000	696,000
Provides for the allocation of funds for the transfer of one Senior Environmental Engineer position and one Environmental Specialist IV position from the Municipal Sewerage Construction program, Federal Expenditures Fund.			Provides for the allocation of funds due to an anticipated shortfall based on expenditure projections.		
			Administration - Income Maintenance		
DEPARTMENT OF ENVIRONMENTAL PROTECTION			Positions - Other Count	(2.0)	(2.0)
TOTAL	(85,560)	(376,421)	Personal Services	70,252	70,500
EXECUTIVE DEPARTMENT			Provides for the allocation of funds for the transfer of 2 Fraud Investigator positions from the Regional Income Maintenance account.		
Office of Substance Abuse			Administration - Social Services		
All Other		698,082	All Other		334,000
Provides for the allocation of funds for the creation of a state prevention services coalition and for the State to conduct treatment needs assessment studies.			Provides for the allocation of funds for increased Dependent Care Planning and Development, Child Abuse and Neglect and Cross Disciplinary		
Office of Substance Abuse					
All Other	(2,915)	(2,915)			

Training Project categorical grants.			Physician position to one full-time Public Health Physician position in the federally funded cancer registry project.		
Administration - Social Services			Health - Bureau of		
All Other		1,574,100	Positions - Other Count	(-0.5)	(-0.5)
Provides for the allocation of funds for the federal match for the Maine Automated Child Welfare Information System (MACWIS).			Personal Services	(13,239)	(52,955)
Aid to Families with Dependent Children - Foster Care			Provides for the deallocation of funds for one part-time Public Health Physician position to be combined with 1/2-time Public Health Physician position in the cancer registry project.		
All Other		716,000	Health - Bureau of		
Provides for the allocation of funds associated with increased federal participation in group home costs.			Personal Services	1,563	6,209
Health - Bureau of			Provides for the allocation of funds for the reclassification of one Information System Support Technician position to one Information System Support Specialist position.		
All Other		627,212	Health - Bureau of		
Provides for the allocation of funds for the continued development of the HIV prevention project.			Positions - Other Count	(1.0)	(1.0)
Health - Bureau of			Personal Services	7,396	29,584
All Other		73,976	Provides for the allocation of funds for the transfer of one Chemist Assistant position from the public health laboratory account, Other Special Revenue to the immunization program.		
Provides for the allocation of funds for the continued development of the Statewide Nutrition Support Network.			Health - Bureau of		
Health - Bureau of			All Other	(4,000)	
Positions - Other Count	(2.0)	(2.0)	Capital Expenditures	4,000	
Personal Services	22,239	89,208	TOTAL	-0-	
All Other	100,000	100,000	Provides for the allocation of funds through a line category transfer for the purchase of capital equipment in the Wellhead Protection Program.		
TOTAL	122,239	189,208	Health - Bureau of		
Provides for the allocation of funds for a Toxic Substance and Disease Registry project and the establishment of one Toxicologist position and one Epidemiologist position.			All Other		(2,500)
Health - Bureau of			Capital Expenditures		2,500
Positions - Other Count	(0.5)	(0.5)	Health - Bureau of		
Personal Services	13,239	52,955			
Provides for the allocation of funds to increase one part-time Public Health					

TOTAL		-0-	foster parent board rate by 10%.		
Provides for the allocation of funds through a line category transfer for the purchase of capital equipment in the Radiological Health Program.			Aid to Families with Dependent Children - Foster Care		
			All Other		474,753
			Provides for the allocation of funds for the additional estimated number of children to be served as a result of child welfare initiatives in state fiscal year 1996-97.		
Income Maintenance - Regional			DEPARTMENT OF HUMAN SERVICES		
Positions - Other Count	(-2.0)	(-2.0)	TOTAL	967,448	5,702,703
Personal Services	(70,252)	(70,500)			
Provides for the deallocation of funds through the transfer of 2 Fraud Investigator positions to the Fraud Investigation Recovery Unit of the Bureau of Family Independence.			INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
			Office of the Commissioner - Inland Fisheries and Wildlife		
Maternal and Child Health			All Other		66,000
All Other		146,301	Provides for the allocation of funds for carrying out surveys of hunters, anglers and nonconsumptive wildlife users.		
Provides for the allocation of funds for the continuation of the Health Resources and Services Administration's School Health Initiative.			Enforcement Operations - Inland Fisheries and Wildlife		
Medical Care Administration			Personal Services		4,645
Capital Expenditures	112,500	229,500	Provides for the allocation of funds for 10% of the salary and benefits for one Director, Division of Safety, Recreation and Education position. The balance of the funds are in Enforcement Operations - Inland Fisheries and Wildlife program, General Fund and the Whitewater Rafting - Inland Fisheries and Wildlife program, Other Special Revenue.		
Provides for the allocation of federal matching funds for capital equipment needed to support managed care and Medicaid Management Information System development.			DEPARTMENT OF INLAND FISHERIES AND WILDLIFE		
Medical Care Administration			TOTAL	-0-	70,645
All Other	27,750	27,750	JUDICIAL DEPARTMENT		
Provides for the allocation of federal matching funds needed for actuarial and other technical assistance needed to implement managed care.			Courts - Supreme, Superior, District and Administrative		
Aid to Families with Dependent Children - Foster Care			All Other	164,000	
All Other		578,110			
Provides for the allocation of funds to increase the					

Provides for the allocation of funds received from the "Brady Bill" to purchase a prorated share of a court management system to improve criminal history record information.		automation efforts of the Bureau of Labor Standards.	
Courts - Supreme, Superior, District and Administrative		Regulation and Enforcement	
Capital Expenditures	200,000	All Other	13,000
Provides for the allocation of funds received from the Department of Human Services to purchase a prorated share of a court management system to improve criminal history record information.		Provides for the allocation of funds for software purchases associated with the automation efforts of the Bureau of Labor Standards.	
Courts - Supreme, Superior, District and Administrative		DEPARTMENT OF LABOR TOTAL	<hr/> 54,900
Capital Expenditures	75,000	MARINE RESOURCES, DEPARTMENT OF	
Provides for the allocation of funds from the Violence Against Women Act through the Justice Assistance Council to purchase a prorated share of a court management system to improve criminal history record information.		Administration - Marine Resources	
Courts - Supreme, Superior, District and Administrative		All Other	23,311
Capital Expenditures		Capital Expenditures	10,000
Provides for the allocation of funds from the Justice Assistance Council to purchase a prorated share of a court management system to improve criminal history record information.		TOTAL	<hr/> 33,311
Courts - Supreme, Superior, District and Administrative		Provides for the allocation of funds through a transfer from the Bureau of Marine Sciences in order to properly identify an existing grant.	
Capital Expenditures	558,000	Marine Development - Bureau of	
Provides for the allocation of funds from the Byrne fund through the Justice Assistance Council to purchase a prorated share of a court management system to improve criminal history record information.		Positions - Other Count	(2.5)
JUDICIAL DEPARTMENT TOTAL	<hr/> 997,000	Personal Services	(2.5) 127,805
LABOR, DEPARTMENT OF		Provides for the allocation of funds and the increase in headcount by 2.5, in order to correct an error in Public Law 1995, chapter 502.	
Administration - Bureau of Labor Standards		Marine Sciences - Bureau of	
Capital Expenditures	41,900	All Other	(23,311)
Provides for the allocation of funds for computers and related costs associated with the		Capital Expenditures	(10,000)
		TOTAL	<hr/> (33,311)
		Provides for the deallocation of funds from a transfer to the Administration - Marine Resources account in order to properly identify an existing grant.	
		Marine Sciences - Bureau of	
		Positions - Other Count	(-2.5)

Provides for the decrease in headcount by 2.5, in order to correct an error in Public Law 1995, chapter 502.				1995-96	1996-97
DEPARTMENT OF MARINE RESOURCES				ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF	
TOTAL		127,805		Building and Grounds Operations	
				All Other	125,000
MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF				Provides for the allocation of funds from the Stripper Well Fund to support energy-related costs.	
Mental Health Services - Community				Capital Construction - Repairs - Improvements - Administration	
All Other	647,710	1,295,420		All Other	245,014
Provides for the allocation of funds for Shelter Plus Care grants received from the federal Department of Housing and Urban Development.				Provides for the allocation of funds from the Stripper Well Fund to support energy-related costs.	
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION				DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES	
TOTAL		647,710	1,295,420	TOTAL	370,014
PUBLIC SAFETY, DEPARTMENT OF				AUDIT, DEPARTMENT OF	
Highway Safety - Department of Public Safety				Audit - Departmental Bureau	
All Other		(855,000)		Personal Services	(15,000)
Capital Expenditures		(500,000)		All Other	15,000
TOTAL		(1,355,000)		TOTAL	-0-
Provides for the deallocation of funds for highway safety programs as authorized pursuant to Section 153 of the federal Intermodal Transportation Act of 1991, no seat belt law penalty funds returned to the Department of Transportation.				Provides for the allocation of funds through a line category transfer to meet start-up costs and other operational expenses associated with 8 new audit positions.	
DEPARTMENT OF PUBLIC SAFETY				DEPARTMENT OF AUDIT	
TOTAL		(1,355,000)		TOTAL	-0-
SECTION A-3				BAXTER STATE PARK AUTHORITY	
TOTAL ALLOCATIONS		4,434,276	8,919,507	Baxter State Park Authority	
				Positions - Other Count	(2.0)
				Personal Services	19,300
				All Other	1,400
				TOTAL	20,700
				Provides for the allocation of funds for the establishment of 4 seasonal Campground Ranger positions.	
				TOTAL	60,600

Sec. A-4. Allocation. The following funds are allocated from the Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997 to carry out the purposes of this Part.

Baxter State Park Authority

Positions - Other Count	(0.5)	(0.5)
Personal Services	2,244	6,260
All Other	350	75

TOTAL	2,594	6,335
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Provides for the allocation of funds for the establishment of one seasonal Assistant Park Ranger position.

**BAXTER STATE PARK
AUTHORITY
TOTAL**

23,294	66,935
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**CORRECTIONS,
DEPARTMENT OF****Youth Center - Maine**

Positions - Other Count	(7.0)
Personal Services	193,778
All Other	1,206,222

TOTAL	1,400,000
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Provides for the allocation of funds to establish 7 Training School Counselor I positions to create a reception and diagnostic unit at the Maine Youth Center and to contract for programs and services outside of the Maine Youth Center.

**DEPARTMENT OF
CORRECTIONS
TOTAL**

-0-	1,400,000
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**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF****Administration - Environmental
Protection**

Positions - Other Count	(1.0)
Personal Services	37,713
All Other	943

TOTAL	38,656
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Provides for the allocation of funds for the transfer of one Data Control Specialist position from the Air Quality Control program, Federal Expenditure Fund to be reorganized to a

Programmer Analyst position.

**Administration - Environmental
Protection**

Positions - Other Count	(-0.5)	(-0.5)
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Provides for a correction in headcount to Public Law 1995, chapter 395, Part A. One Conservation Aide position was inadvertently counted as one instead of 1/2 Other Count.

**Board of Environmental
Protection Fund**

Personal Services	2,087	9,215
All Other	52	230

TOTAL	2,139	9,445
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Provides for the allocation of funds for the reorganization of one Deputy Commissioner, Environmental Protection position from range 34 to range 88, to more accurately reflect job responsibilities.

**Maine Environmental
Protection Fund**

Positions - Other Count	(0.5)	(0.5)
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Provides for a correction in headcount to Public Law 1995, chapter 395, Part A. One Conservation Aide position was transferred to the Administration - Environmental Protection program, Other Special Revenue and was inadvertently counted as a whole instead of a 1/2 headcount.

**Municipal Sewerage
Construction**

Positions - Other Count	(4.0)	(4.0)
Personal Services	54,723	207,777
All Other	1,368	5,194

TOTAL	56,091	212,971
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Provides for the allocation of funds for the transfer of one Planning and

Research Assistant position, one Assistant Environmental Engineer position, one Senior Environmental Engineer position and one Environmental Engineer Services Manager position from this same program, Federal Expenditure Fund in the last quarter of fiscal year 1995-96.			Provides for the allocation of funds to meet costs associated with a unit clarification decision.		
Oil and Hazardous Materials Control			EXECUTIVE DEPARTMENT TOTAL	9,700	20,079
Positions - Other Count	(-1.0)	(-1.0)	HUMAN SERVICES, DEPARTMENT OF		
Personal Services	(8,167)	(35,986)	Aid to Families with Dependent Children		
All Other	(204)	(900)	All Other	1,900,000	1,000,000
TOTAL	(8,371)	(36,886)	Provides for the allocation of funds in this account in order to allow for the expenditure of anticipated incentive revenue funds.		
Provides for the deallocation of funds through the transfer of one Environmental Specialist II position to another dedicated account in this same program.			Aid to Families with Dependent Children		
Oil and Hazardous Materials Control			All Other	1,694,146	2,173,192
Positions - Other Count	(4.0)	(4.0)	Provides for the allocation of funds in the Aid to Families with Dependent Children Special Revenue account in order to allow for the expenditure of fiscal year 1994-95 carry-over incentive funds and anticipated incentive revenues during fiscal year 1995-96.		
Personal Services	37,419	165,442	Drinking Water Enforcement		
All Other	935	4,136	All Other		17,416
TOTAL	38,354	169,578	Provides for the allocation of funds for the continued development of the Maine Public Drinking Water program.		
Provides for the allocation of funds for the transfer of 3 Environmental Specialist II positions from the Federal Expenditure Fund of this same program and the transfer of one Environmental Specialist II position from another dedicated account in this same program for remediation and monitoring of state hazardous waste sites.			General Assistance - Reimbursement to Cities and Towns		
DEPARTMENT OF ENVIRONMENTAL PROTECTION			All Other		200,000
TOTAL	88,213	393,764	Provides for the allocation of funds from the Stripper Well Fund to support energy-related costs.		
EXECUTIVE DEPARTMENT			Health - Bureau of		
Public Advocate			All Other	5,000	5,000
Personal Services	9,700	20,079	Provides for the allocation of funds for the transfer of allotment from the Public Health Nursing account.		

Health - Bureau of			Water Well Drilling Program.		
Positions - Other Count	(-1.0)	(-1.0)			
Personal Services	(7,396)	(29,584)	Purchased Social Services		
Provides for the deallocation of funds through the transfer of one Chemist Assistant position from the Public Health Laboratory account to the Federal Project Grants account, Federal Expenditure Fund.			All Other	200,000	80,000
			Provides for the allocation of funds from the recoupment of outstanding audits.		
			DEPARTMENT OF HUMAN SERVICES		
			TOTAL	3,786,750	3,447,024
Health - Bureau of			INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
All Other	(5,000)	(5,000)	Maine Outdoor Heritage Fund		
Provides for the deallocation of funds through the transfer of allotment to the Special Revenue Health account.			Positions - Other Count	(1.0)	(1.0)
			Personal Services	31,730	61,800
			All Other	464,270	2,938,200
			Capital Expenditures	4,000	
Health - Bureau of			TOTAL	500,000	3,000,000
All Other		(18,466)	Provides for the allocation of funds to establish one Executive Director position for the administration and operation of the Maine Outdoor Heritage Fund as authorized by the Maine Revised Statutes, Title 12, section 7788.		
Provides for deallocation of funds through the transfer of well child clinic dedicated allotment to the Special Revenue Health account.					
Health - Bureau of			Public Information and Education - Division of		
All Other		18,466	Personal Services	10,000	11,000
Provides for the allocation of funds for the transfer of allotment from the Public Health Nursing account.			Provides for the allocation of funds to extend one 30-week full-time Gamekeeper position to 48 weeks in order to maintain wildlife, exhibits and building and grounds care.		
Health - Bureau of			Whitewater Rafting - Inland Fisheries and Wildlife		
All Other	(15,500)	(15,500)	Positions - Other Count	(0.5)	(0.5)
Capital Expenditures		15,500	Personal Services	2,010	9,231
TOTAL		-0-	All Other	(2,010)	(9,231)
Provides for the allocation of funds through a line category transfer to purchase capital equipment in the radiation control program.			TOTAL	-0-	-0-
Maine Water Well Drilling Program			Provides for the allocation of funds to establish one intermittent Assistant Game Warden position		
All Other		6,000			
Provides for the allocation of funds for the continuation of the Maine					

for 880 hours per year to enforce whitewater rafting laws.			Capital Expenditures	46,471	
Whitewater Rafting - Inland Fisheries and Wildlife			Provides for the allocation of funds for computers and related costs associated with the automation efforts of the Bureau of Labor Standards.		
Personal Services	15,329				
All Other	(15,329)				
TOTAL		-0-	DEPARTMENT OF LABOR TOTAL	46,471	
Provides for the allocation of funds for 33% of the salary and benefits for one Director, Division of Safety, Recreation and Education position. The balance of the funding is in the Enforcement Operations - Inland Fisheries and Wildlife program, General Fund and Federal Expenditure Fund.			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)
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	510,000	3,011,000	Provides for the deallocation of funds through the transfer of 2 Clerk Typist II positions and related All Other costs necessary for administering new lobster management requirements and for the costs of 5 Lobster Management Policy Council members to the Lobster Management Fund.		
JUDICIAL DEPARTMENT Courts - Supreme, Superior, District and Administrative			Marine Patrol - Bureau of		
All Other	30,000		Positions - Other Count	(5.0)	(5.0)
Provides for the allocation of funds from the State Justice Institute for the purpose of evaluating the video arraignment process in the Cumberland County Courthouse.			Personal Services	116,012	154,682
			All Other	92,800	120,400
Courts - Supreme, Superior, District and Administrative			Capital Expenditures	43,500	5,000
All Other	29,760	15,000	TOTAL	252,312	280,082
Capital Expenditures	3,600		Provides for the allocation of funds for the transfer of 2 Clerk Typist II positions, one Boat Specialist position, 2 Marine Patrol Officer positions and related All Other for administering the new Lobster Management Fund.		
TOTAL	33,360	15,000	Marine Patrol - Bureau of		
Provides for the allocation of funds from the State Justice Institute to develop a process to monitor mediation programs.			Positions - Other Count	(-3.0)	(-3.0)
JUDICIAL DEPARTMENT TOTAL	63,360	15,000	Personal Services	(79,388)	(105,850)
LABOR, DEPARTMENT OF Safety Education and Training Programs			All Other	(30,300)	(40,400)
			Capital Expenditures	(31,500)	(5,000)

TOTAL	(141,188)	(151,250)
Provides for the deallocation of funds through the transfer of one Boat Specialist position and 2 Marine Patrol Officer positions and related All Other and Capital Expenditures costs necessary for enforcement of the new Lobster Management Fund.		
Marine Sciences - Bureau of		
All Other	2,500	5,000
Provides for the allocation of funds for the creation of a Paralytic Seafood Poisoning revolving fund.		
DEPARTMENT OF MARINE RESOURCES		
TOTAL	2,500	5,000
MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		
Augusta Mental Health Institute		
Personal Services	(615,748)	
All Other	615,748	
TOTAL	-0-	
Provides for the transfer of funds from Personal Services to All Other in order to fund the shortfall in the contractual services for physician coverage.		
Augusta Mental Health Institute		
All Other	48,536	
Capital Expenditures	563	
TOTAL	49,099	
Provides for the allocation of funds to purchase drugs for patients and funds to upgrade the Augusta Mental Health Institute's local area network. The state match for this has already been allotted through an unencumbered balance forward financial order.		
Bangor Mental Health Institute		

All Other	68,031
Capital Expenditures	1,845
TOTAL	69,876

Provides for the allocation of funds to purchase drugs for patients and an air conditioner. The state match for this has already been allotted through an unencumbered balance forward financial order.

Bangor Mental Health Institute

All Other	(18,927)
Capital Expenditures	18,927
TOTAL	-0-

Provides for the allocation of funds to purchase automated time clocks, a medical records scanner and computer hardware for a local area network system. Savings are from food costs due to a declining census.

Bangor Mental Health Institute

Positions - Other Count	(-23.5)
Personal Services	(524,006)
All Other	(98,755)
TOTAL	(622,761)

Provides for the deallocation of funds through the elimination of one Nurse III position, 2 Nurse II positions, one Nurse I position, 3 Licensed Practical Nurse positions, 2 Assistant Team Leader positions, 10 Mental Health Worker I positions, one Habilitation Aide position, one Psychiatric Social Worker II position, one Ward Clerk position, one Institutional Custodial Worker position and one part-time Psychologist III position due to the closing of the K-1 unit at Bangor Mental Health Institute. These positions will be eliminated no later than September 14, 1996. The department shall ensure

that the current number of beds are maintained until March 14, 1997 in case there are emergency needs.

Bangor Mental Health Institute

Positions - Other Count	(2.0)	(2.0)
Personal Services	9,015	46,244

Provides for the allocation of funds for the transfer of one Clerk Typist II position and one Painter position from the General Fund as a result of downsizing.

Bangor Mental Health Institute

Positions - Other Count	(9.0)	(9.0)
Personal Services	112,153	208,284

Provides for the allocation of funds for the transfer of 5 Mental Health Worker I positions, 2 Mental Health Worker II positions, one Assistant Team Leader position and one Habilitation Aide position from the General Fund as a result of the closure of 2 halfway houses.

Administration - Mental Health and Mental Retardation

All Other		188,400
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Provides for the allocation of funds to improve system network connections.

Augusta Mental Health Institute

All Other		109,235
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Provides for the allocation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.

Bangor Mental Health Institute

All Other		116,548
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Provides for the allocation of funds due to a change in the federal match rate for federal fiscal year 1997 from 63.32% to 63.62%.

Mental Health Services - Community

All Other		1,918,313
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Provides for the allocation of funds to create an integrated system of crisis services.

Mental Health Services - Community

All Other		600,000
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Provides for the allocation of funds to expand individualized vocational services, expand employer-based initiatives to provide supported training and technical assistance and establish a career center to provide information and assistance for consumers to pursue their expressed career interests.

Mental Health Services - Community

All Other		120,000
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Provides for the allocation of funds for consumer initiatives that will provide peer services, education and training and support and for the development of consumer information centers.

Mental Health Services - Community

All Other	1,000	201,000
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Provides for the allocation of funds to establish statewide, regionally based training regarding treatment of trauma survivors and the establishment of a trauma survivors coalition.

Mental Health Services - Community

All Other		60,000
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Provides for the allocation of funds to conduct training for mental health system providers

regarding services to the geriatric population.			Provides for the allocation of funds to reflect the establishment of one Principal Securities Specialist position to assist small businesses in this State in using the Small Corporate Offering Registration (SCOR) program, or other appropriate vehicle under the securities law, to raise capital.		
Mental Health Services - Community					
All Other	8,000				
Provides for the allocation of funds to support training for mental health and mental retardation professionals on issues involved in working with persons with dual diagnoses of mental health and mental retardation.					
Mental Health Services - Community			DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL	35,150	72,750
All Other	96,000		PUBLIC SAFETY, DEPARTMENT OF Turnpike Enforcement		
Provides for the allocation of funds to support a variety of public education programs designed to educate the public regarding mental illness, the myths and stigma associated with it, and the rights of people with mental illness and their families.			Positions - Other Count	(3.0)	(3.0)
Mental Health Services - Community Medicaid			Personal Services	54,690	203,256
All Other	616,596		All Other	11,013	39,529
Provides for the allocation of funds to develop community resources for 47 AMHI long-stay patients in fiscal year 1997.			Capital Expenditures	77,100	
DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION TOTAL	241,143	3,665,859	TOTAL	142,803	242,785
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF			Provides for the allocation of funds for the establishment of one State Police Sergeant position and 2 State Police Trooper positions, as requested by the Maine Turnpike Authority, to provide additional law enforcement services required on the turnpike.		
Banking - Bureau of			DEPARTMENT OF PUBLIC SAFETY TOTAL	142,803	242,785
Positions - Other Count	(1.0)	(1.0)	TRANSPORTATION, DEPARTMENT OF		
Personal Services	26,150	62,750	Transportation Services		
All Other	5,000	10,000	All Other		213,060
Capital Expenditures	4,000		Provides for the allocation of funds from the Stripper Well Fund to support public transportation programs.		
TOTAL	35,150	72,750	DEPARTMENT OF TRANSPORTATION TOTAL		213,060
			SECTION A-4 TOTAL ALLOCATIONS	4,949,384	12,923,270

Sec. A-5. Allocation. The following funds are allocated from the Federal Block Grant Fund for the fiscal years ending June 30, 1996 and June 30, 1997 to carry the purposes of this Part.

	1995-96	1996-97
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Community Development Block Grant Program		
All Other	2,650,000	
Provides for the allocation of funds from community development block grant funds to cities and towns.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	<hr/> 2,650,000	
HUMAN SERVICES, DEPARTMENT OF		
Administration - Social Services		
All Other		3,524,502
Provides for the allocation of funds from the transfer of Child Care Development grant funds from the Purchased Social Services Block Grant account in fiscal year 1996-97.		
Dental Disease Prevention		
All Other		20,000
Provides for the allocation of funds from the Preventative Health and Human Services Block Grant for the continued development of the Dental Disease Prevention program.		
Health - Bureau of		
All Other		(20,000)
Provides for the deallocation of funds from the Preventative Health and Human Services Block Grant in the		

Administration - Block Grant account.

Purchased Social Services

All Other (3,524,502)

Provides for the deallocation of funds through the transfer of Child Care and Development grant funds to the Administration - Social Services Block Grant account in fiscal year 1996-97.

Community Services Block Grant

Positions - Legislative Count (-1.0) (-1.0)
Personal Services (10,712) (41,459)

Provides for the deallocation of funds from the transfer of one Management Analyst II position to the Purchased Social Services program.

Purchased Social Services

Positions - Legislative Count (1.0) (1.0)
Personal Services 10,712 41,459

Provides for the allocation of funds for the transfer of one Management Analyst II position from the Community Services Block Grant program.

DEPARTMENT OF HUMAN SERVICES TOTAL

-0-

-0-

MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF

Mental Health Services - Children

All Other 8,934

Provides for the allocation funds from the unexpended balance from the prior fiscal year in order to contract services for community mental health services for children.

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

8,934

SECTION A-5

TOTAL ALLOCATIONS

\$2,658,934

\$-0-

PART B

Sec. B-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	\$5,108	\$5,548
Taxation - Bureau of		
Personal Services	4,662	3,976
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	9,770	9,524
CONSERVATION, DEPARTMENT OF		
Forest Fire Control - Division of		
Personal Services	2,040	1,231
Land Use Regulation Commission		
Personal Services	3,871	2,416
Parks - General Operations		
Personal Services	595	1,169
DEPARTMENT OF CONSERVATION TOTAL	6,506	4,816
EDUCATION, DEPARTMENT OF		
Rehabilitation Services		
Personal Services	1,881	1,229
Division of School Business Services		
Personal Services	774	

**DEPARTMENT OF
EDUCATION
TOTAL**

2,655

1,229

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

Land Quality Control

Personal Services

1,762

2,030

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

1,762

2,030

**GOVERNMENTAL ETHICS
AND ELECTION PRACTICES,
COMMISSION ON**

**Governmental Ethics and
Election Practices - Commission
on**

Personal Services

3,718

3,592

**COMMISSION ON
GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
TOTAL**

3,718

3,592

**HUMAN SERVICES,
DEPARTMENT OF**

**Administration - Human
Services**

Personal Services

17,800

19,950

Health - Bureau of

Personal Services

3,150

2,350

Medical Care Administration

Personal Services

9,460

11,495

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

30,410

33,795

**INLAND FISHERIES AND
WILDLIFE, DEPARTMENT
OF**

**ATV Safety and Educational
Program**

Personal Services

3,572

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

Personal Services

5,779

**DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE
TOTAL**

3,572

5,779

LABOR, DEPARTMENT OF**Regulation and Enforcement**

Personal Services	1,877	10,824
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DEPARTMENT OF LABOR TOTAL	1,877	10,824
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LIBRARY, MAINE STATE**Administration - Library**

Personal Services	5,680	5,500
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MAINE STATE LIBRARY TOTAL	5,680	5,500
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MUSEUM, MAINE STATE**Administration - Museum**

Personal Services	1,754	1,064
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MAINE STATE MUSEUM TOTAL	1,754	1,064
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**PUBLIC SAFETY,
DEPARTMENT OF****Drug Enforcement Agency**

Personal Services	1,531	1,549
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DEPARTMENT OF PUBLIC SAFETY TOTAL	1,531	1,549
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SECTION

TOTAL APPROPRIATIONS	69,235	79,702
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Sec. B-2. Allocation. There are allocated from the Highway 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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**SECRETARY OF STATE,
DEPARTMENT OF THE****Administration - Motor Vehicles**

Personal Services	2,418	4,114
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DEPARTMENT OF THE SECRETARY OF STATE TOTAL	2,418	4,114
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**TRANSPORTATION,
DEPARTMENT OF****Administration and Planning**

Personal Services	8,813	9,385
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**Highway and Bridge
Improvement**

Personal Services	20,613	29,916
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**DEPARTMENT OF
TRANSPORTATION
TOTAL**

29,426	39,301
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SECTION

TOTAL ALLOCATIONS	31,844	43,415
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Sec. B-3. 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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**EDUCATION, DEPARTMENT
OF****Division of Applied Technology**

Personal Services	1,508	2,895
All Other	(1,508)	(2,895)

TOTAL	-0-	-0-
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**Blind and Visually Impaired -
Division for the**

Personal Services	1,432	1,915
All Other	(1,432)	(1,915)

TOTAL	-0-	-0-
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Rehabilitation Services

Personal Services	2,623	3,069
All Other	(2,623)	(3,069)

TOTAL	-0-	-0-
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Preschool Handicapped

Personal Services	1,294	2,317
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**DEPARTMENT OF
EDUCATION
TOTAL**

1,294	2,317
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**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF****Administration - Environmental
Protection**

Personal Services	3,528	2,302
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**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

3,528	2,302
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**HISTORIC PRESERVATION
COMMISSION, MAINE**

Historic Preservation Commission		
Personal Services	1,105	1,630
MAINE HISTORIC PRESERVATION COMMISSION TOTAL	<u>1,105</u>	<u>1,630</u>
HUMAN SERVICES, DEPARTMENT OF		
Administration - Regional - Human Services		
Personal Services	1,250	1,300
Health - Bureau of		
Personal Services	2,800	1,350
Medical Care Administration		
Personal Services	6,925	6,090
DEPARTMENT OF HUMAN SERVICES TOTAL	<u>10,975</u>	<u>8,740</u>
MARINE RESOURCES, DEPARTMENT OF		
Marine Sciences - Bureau of		
Personal Services	2,395	1,981
DEPARTMENT OF MARINE RESOURCES TOTAL	<u>2,395</u>	<u>1,981</u>
SECTION TOTAL ALLOCATIONS	<u>19,297</u>	<u>16,970</u>

Sec. B-4. 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.

	1995-96	1996-97
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Administration - Environmental Protection		
Personal Services	2,469	2,179
Maine Environmental Protection Fund		
Personal Services	1,768	1,807
Oil and Hazardous Materials Control		

Personal Services	2,582	3,962
DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	<u>6,819</u>	<u>7,948</u>
LABOR, DEPARTMENT OF		
Safety Education and Training Programs		
Personal Services	4,805	2,891
DEPARTMENT OF LABOR TOTAL	<u>4,805</u>	<u>2,891</u>
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Nursing - Board of		
Personal Services	10,400	7,400
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION TOTAL	<u>10,400</u>	<u>7,400</u>
SECTION TOTAL ALLOCATIONS	<u>22,024</u>	<u>18,239</u>

Sec. B-5. 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
EXECUTIVE DEPARTMENT		
Office Of Substance Abuse		
Personal Services	1,354	954
All Other	(1,354)	(954)
EXECUTIVE DEPARTMENT TOTAL	<u>-0-</u>	<u>-0-</u>
SECTION TOTAL ALLOCATIONS	<u>-0-</u>	<u>-0-</u>

Sec. B-6. Allocation. There are allocated from the Highway Garage 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
TRANSPORTATION, DEPARTMENT OF		
Motor Transport Service		

Personal Services	1,138	520
All Other	(1,138)	(520)
DEPARTMENT OF TRANSPORTATION TOTAL	<u>-0-</u>	<u>-0-</u>
SECTION TOTAL ALLOCATIONS	<u>\$-0-</u>	<u>\$-0-</u>

PART C

Sec. C-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		
Taxation - Bureau of		
Personal Services	(\$9,770)	(\$9,524)
Provides funds for approved reclassifications in this program and the Accounts and Control-Bureau program. Funding for 9 reclassifications in Public Law 1995, chapter 368, Part B, is no longer necessary as a result of the department's approved productivity plan.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>(9,770)</u>	<u>(9,524)</u>
CONSERVATION, DEPARTMENT OF		
Forest Fire Control - Division of		
All Other	(2,040)	(1,231)
Provides funds for an approved reclassification.		
Land Use Regulation Commission		
All Other	(3,871)	(2,416)
Provides funds for an approved reclassification.		
Parks - General Operations		
Personal Services	(595)	(1,169)

Provides funds for an approved reclassification from the reduction in weeks of one Laborer I position.		
DEPARTMENT OF CONSERVATION TOTAL	<u>(6,506)</u>	<u>(4,816)</u>
EDUCATION, DEPARTMENT OF		
Rehabilitation Services		
All Other	(1,881)	(1,229)
Provides funds for an approved reclassification.		
Division of School Business Services		
All Other	(774)	
Provides funds for an approved reclassification.		
DEPARTMENT OF EDUCATION TOTAL	<u>(2,655)</u>	<u>(1,229)</u>
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Land Quality Control		
All Other	(1,762)	(2,030)
Provides funds for an approved reclassification.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION TOTAL	<u>(1,762)</u>	<u>(2,030)</u>
GOVERNMENTAL ETHICS AND ELECTION PRACTICES, COMMISSION ON		
Governmental Ethics and Election Practices		
Personal Services	(2,123)	(1,758)
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES TOTAL	<u>(2,123)</u>	<u>(1,758)</u>
HUMAN SERVICES, DEPARTMENT OF		
Administration - Human Services		
All Other	(17,800)	(19,950)

Provides funds for approved reclassifications.			are available from salary savings.		
Health - Bureau of			Reader and Information Services - Library		
All Other	(3,150)	(2,350)	Personal Services		(5,500)
Provides funds for an approved reclassification.			Provides funds for an approved reclassification in the Administration-Library program. Funds are available from the elimination of a position.		
Medical Care Administration			MAINE STATE LIBRARY TOTAL	(5,680)	(5,500)
All Other	(9,460)	(11,495)	MUSEUM, MAINE STATE		
Provides funds for approved reclassifications.			Exhibit Design and Preparation - Museum		
DEPARTMENT OF HUMAN SERVICES TOTAL	(30,410)	(33,795)	Personal Services	(1,754)	
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF			Provides funds for an approved reclassification in the Administration-Museum program. Funds are available from salary savings.		
ATV Safety and Educational Program			Research and Collection - Museum		
All Other	(3,572)		Personal Services		(1,064)
Provides funds for an approved reclassification.			Provides funds for an approved reclassification through a position downgrade in the Administration-Museum program.		
Administrative Services - Inland Fisheries and Wildlife			MAINE STATE MUSEUM TOTAL	(1,754)	(1,064)
All Other		(5,779)	PUBLIC SAFETY, DEPARTMENT OF		
Provides funds for an approved range change.			State Police		
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE TOTAL	(3,572)	(5,779)	Personal Services	(1,531)	(1,549)
LABOR, DEPARTMENT OF			Provides funds for an approved reclassification in the Drug Enforcement Agency program from the elimination of a position.		
Regulation and Enforcement			DEPARTMENT OF PUBLIC SAFETY TOTAL	(1,531)	(1,549)
All Other	(1,877)	(10,824)	SECTION TOTAL APPROPRIATIONS	(67,640)	(77,868)
Provides funds for approved reclassifications.					
DEPARTMENT OF LABOR TOTAL	(1,877)	(10,824)			
LIBRARY, MAINE STATE					
Library Development Services					
Personal Services	(5,680)				
Provides funds for an approved reclassification due to a reorganization in the Administration-Library program. Funds					

Sec. C-2. Allocation. There are allocated from the Highway 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
SECRETARY OF STATE, DEPARTMENT OF THE Administration - Motor Vehicles		
Personal Services	(2,418)	(4,114)
Provides funds for an approved reclassification from budgeted overtime.		
DEPARTMENT OF THE SECRETARY OF STATE TOTAL	<u>(2,418)</u>	<u>(4,114)</u>
TRANSPORTATION, DEPARTMENT OF Administration and Planning		
All Other	(8,813)	(9,385)
Provides funds for approved reclassifications.		
Highway and Bridge Improvement		
All Other	(20,613)	(29,916)
Provides funds for approved reclassifications.		
DEPARTMENT OF TRANSPORTATION TOTAL	<u>(29,426)</u>	<u>(39,301)</u>
SECTION TOTAL ALLOCATIONS	<u>(31,844)</u>	<u>(43,415)</u>

Sec. C-3. Allocation. There are allocated from Other Special Revenue funds for the fiscal year ending June 30, 1996, to the departments listed, the sums identified in the following, in order to provide funding for approved reclassifications and range changes.

	1995-96
LABOR, DEPARTMENT OF Safety Education and Training Programs	
Personal Services	29,259
Provides funds for the retroactive payment of	

reclassifications in the Regulation and Enforcement General Fund program.

DEPARTMENT OF LABOR TOTAL	<u>29,259</u>
SECTION TOTAL ALLOCATIONS	<u>\$29,259</u>

PART D

Sec. D-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1996-97
ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF Job Training Consolidation - Statewide	
All Other	\$2,250,000
Provides for the appropriation of funds to offset a deappropriation in Public Law 1995, chapter 368, Part OO.	
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL	<u>2,250,000</u>
EDUCATION, DEPARTMENT OF Jobs for Maine's Graduates	
All Other	(181,981)
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.	
DEPARTMENT OF EDUCATION TOTAL	<u>(181,981)</u>
HUMAN SERVICES, DEPARTMENT OF Welfare Employment, Education and Training	
All Other	(569,985)

Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.		DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION	
DEPARTMENT OF HUMAN SERVICES		TOTAL	(112,000)
TOTAL	(569,985)	MAINE TECHNICAL COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE	
LABOR, DEPARTMENT OF Displaced Homemakers Program		Maine Technical College System - Board of Trustees	
All Other	(95,188)	All Other	(200,000)
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.		Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.	
Job Training Partnership Program		BOARD OF TRUSTEES OF THE MAINE TECHNICAL COLLEGE SYSTEM	
All Other	(200,482)	TOTAL	(200,000)
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.		TOTAL APPROPRIATIONS	\$694,733
Star		PART E	
Personal Services	(39,213)	Sec. E-1. 30-A MRSA §5681, sub-§5-A is enacted to read:	
All Other	(156,418)	5-A. Temporary exception. Notwithstanding subsection 5, the Treasurer of State may not transfer to the Local Government Fund an amount equal to 5.1% of the receipts from the taxes imposed under Title 36, Part 3 on sales of prepared food in establishments that are licensed for on-premises consumption of liquor, pursuant to Title 28-A, chapter 43.	
TOTAL	(195,631)	<u>This subsection is repealed on June 30, 1997.</u>	
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.		Sec. E-2. 36 MRSA c. 370 , as enacted by PL 1993, c. 410, Pt. YY, §2 and affected by §6, is repealed.	
DEPARTMENT OF LABOR		Sec. E-3. 36 MRSA §5219-J , as enacted by PL 1993, c. 711, §2 and affected by §3, is repealed.	
TOTAL	(491,301)	Sec. E-4. Effective date. This Part takes effect January 1, 1997.	
MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF		Sec. E-5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.	
Mental Health Services - Community			1996-97
All Other	(112,000)	HUMAN SERVICES, DEPARTMENT OF	
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part OO.			

Intermediate Care - Payments to Providers

All Other	(\$2,508,466)
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Deappropriates funds due to savings resulting from the repeal of the Gross Receipts Tax effective January 1, 1997.

Sec. E-6. 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****Intermediate Care - Payments to Providers**

All Other	(\$4,330,318)
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Deallocates funds due to savings resulting from the repeal of the Gross Receipts Tax effective January 1, 1997.

PART F

Sec. F-1. Calculation and transfer. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amounts in sections 4 to 8 of this Part that apply against each Federal Expenditure Fund, Other Special Revenue, Federal Block Grant fund, Internal Service fund and Enterprise fund account for all departments and agencies based on the proportionate share of employer retirement costs for the retiree health insurance share and employer health insurance costs for the state employee health insurance share paid in fiscal year 1994-95 from the Personal Services appropriations and allocations of the affected accounts. Notwithstanding Title 5, section 1585, the State Budget Officer shall calculate and transfer the amounts from each affected account to the Payroll Withholding Fund no later than July 31, 1996.

Sec. F-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF****Departments and Agencies -
Statewide**

Personal Services	\$1,767,829
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Provides for the appropriation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-3. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

1996-97**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF****Departments and Agencies -
Statewide**

Personal Services	688,830
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Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-4. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

1996-97**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF****Departments and Agencies -
Statewide**

Personal Services	613,369
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Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-5. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services 492,172

Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-6. Allocation. The following funds are allocated from the Federal Block Grant fund to carry out the purposes of this Part.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services 28,684

Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-7. Allocation. The following funds are allocated from the various Internal Service funds to carry out the purposes of this Part.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services 130,457

Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

Sec. F-8. Allocation. The following funds are allocated from the various Enterprise funds to carry out the purposes of this Part.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Departments and Agencies -
Statewide**

Personal Services \$55,107

Provides for the allocation of funds for the payment of the excess of claims over premiums and stop-loss protection for the state employee health insurance program.

PART G

Sec. G-1. 5 MRSA §1742, sub-§7, as amended by PL 1989, c. 483, Pt. A, §14, is further amended to read:

7. Approve plans for public improvements.

To approve all proposals, plans, specifications and contracts for public improvements ~~which~~ that the State or any of its agencies hold in fee or by leasehold interest and for school administrative unit projects costing in excess of \$100,000. The commissioner shall, upon the request of a school administrative unit, provide consultation for any public improvement regardless of cost. The Bureau of General Services may assess school administrative units the reasonable cost of services provided by the bureau for school construction projects for which budgets have been established subsequent to July 1, 1995;

Sec. G-2. Carrying balances - Inland Fisheries and Wildlife Program; lapsed balances. Notwithstanding any other provision of law, \$278,260 in fiscal year 1995-96 in the Carrying Balances - Inland Fisheries and Wildlife Program lapse to the General Fund as a result of a revenue shortfall in fiscal year 1994-95.

Sec. G-3. Federal account consolidation.

In the 1996-1997 biennium only, a department or agency head may consolidate federally funded accounts into one or more accounts by financial order, upon recommendation to the State Budget Officer and approval by the Governor, in order to adapt to the restructuring of federal funding.

Sec. G-4. Department of Mental Health and Mental Retardation; General Fund revenue.

The Department of Mental Health and Mental Retardation shall seek reimbursement of expenditures under Medicaid Title XIX, 42 United States Code, Sections 1396 to 1396v (1988), for Medicaid cost settlements due the department in the amount of \$2,425,347 in fiscal year 1995-96 to be credited as General Fund undedicated revenue.

Sec. G-5. Department of Mental Health and Mental Retardation; rate revision.

The Department of Mental Health and Mental Retardation shall recommend, with the approval of the Department of Human Services, revised mental retardation case management rates for the purpose of receiving Medicaid reimbursements consistent with client costs. This rate adjustment will result in additional General Fund undedicated revenue of \$690,353 in fiscal year 1995-96 and \$1,006,084 in fiscal year 1996-97.

Sec. G-6. Transfer. The Department of Inland Fisheries and Wildlife may transfer by financial order \$200,483 in fiscal year 1995-96 from the Carrying Balances - Inland Fisheries and Wildlife Program, General Fund to the Enforcement Operations - Inland Fisheries and Wildlife Program, General Fund to increase funding for retirement costs for the 70% retirement plan positions.

Sec. G-7. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$50,000 from the Special Administrative Account, Other Special Revenue account in the Department of Labor to General Fund undedicated revenue no later than June 30, 1996.

Sec. G-8. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$333,397 from the Maine State Housing Authority, Other Special Revenue account to General Fund undedicated revenue no later than June 30, 1996.

Sec. G-9. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$100,000 in fiscal years 1995-96 and 1996-97 from the Regional Social Services account in the Department of Human Services to General Fund undedicated revenue no later than June 30th of each fiscal year.

Sec. G-10. Transfer of funds. Notwithstanding any other provision of law, the State Control-

ler may transfer \$40,322 from the Intermediate Care Services, Other Special Revenue account in the Department of Human Services to General Fund undedicated revenue no later than June 30, 1996.

Sec. G-11. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$250,000 in fiscal year 1995-96 and \$200,000 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 30th of each fiscal year.

Sec. G-12. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$20,000 from the Departmentwide - Public Safety - Total Quality Management, Other Special Revenue account in the Department of Public Safety to General Fund undedicated revenue no later than June 30, 1996.

Sec. G-13. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$49,623 from the Public Services - Agriculture, Federal Expenditures account in the Department of Agriculture, Food and Rural Resources to General Fund undedicated revenue no later than June 30, 1996.

Sec. G-14. Lapsed balance. Notwithstanding any other provision of law, \$288,000 in fiscal year 1995-96 in the Accounts and Control - Bureau of - Systems Project lapse to the General Fund as a result of a disencumbered contract.

Sec. G-15. Department of Administrative and Financial Services - fiscal agent.

The Department of Administrative and Financial Services shall serve as the fiscal agent for the former Maine Health Care Finance Commission for the purpose of effecting the repeal of the commission. The duties of the Department of Administrative and Financial Services are limited to those required to close out the commission 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. This section takes effect July 1, 1996.

PART H

Sec. H-1. Nonlapsing funds. Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in the Disaster Assistance account in the Department of Defense and Veterans' Services may not lapse but must be carried forward to be used for the same purposes.

PART I

Sec. I-1. PL 1993, c. 471, §4, as amended by PL 1995, c. 368, Pt. K, §6, is repealed.

Sec. I-2. PL 1993, c. 471, §5, as amended by PL 1995, c. 5, Pt. G, §1, is repealed.

Sec. I-3. Transfer of funds. Notwithstanding any other provision of law, the State Controller may transfer \$200,000 from the Economic Opportunity Fund, Other Special Revenue account in the Department of Economic and Community Development to General Fund undedicated revenue no later than June 30, 1997.

PART J

Sec. J-1. 20-A MRSA §8605, sub-§2, ¶B, as amended by PL 1991, c. 518, §37, is further amended to read:

B. The unit in which such a person resides must be reimbursed in accordance with ~~chapter chapters~~ 606 and 606-A.

Sec. J-2. 20-A MRSA §15603, sub-§26-A, ¶F, as enacted by PL 1993, c. 410, Pt. F, §15, is amended to read:

F. If for any fiscal year, the total amount appropriated for the State's share of the total allocation is less than the amount specified in the certified funding level for that year, then all subsidizable costs except as noted in subparagraphs (1) and (2) are reduced by a percentage of the original cost amounts. The reduction percentage is the smallest percentage that results in a state share of the total allocation that does not exceed the amount appropriated for this purpose, except that the reduction percentage that would ordinarily be used for operating and program costs must be reduced for the purpose of computing state subsidy for transportation operating costs as defined in subsection 29. The reduction percentage ordinarily used for transportation operating costs must be reduced by the amount necessary to provide additional state subsidy equal to \$4,500,000 for this category of costs. The statewide adjustment factor under section 15654, subsection 1, paragraph B must be adjusted by an amount sufficient to provide this additional funding for program costs. The following subsidizable costs may not be reduced:

- (1) Principal and interest on approved school construction costs; and
- (2) Approved lease costs.

Sec. J-3. Basic elementary and secondary per-pupil operating rates, per-pupil guarantee

and statewide factor. The basic elementary per-pupil operating rate for fiscal year 1996-97 is \$2,880 and the basic secondary per-pupil operating rate for fiscal year 1996-97 is \$3,799. The foundation per-pupil operating rate for fiscal year 1996-97 is \$3,139. The per-pupil guarantee for fiscal year 1996-97 is \$3,513. The statewide factor for fiscal year 1996-97 is 0.54972.

Sec. J-4. Basic education allocation. The basic allocation of state and local funds for fiscal year 1996-97 for the purposes listed in this Part is as follows.

1996-97**Operating Costs**

Per-pupil guarantee pursuant to the Maine Revised Statutes, Title 20-A, section 15653	\$760,148,480
Less amount shifted to Transportation Operating	(4,500,000)

Adjusted Operating Costs Total	755,648,480
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Program Costs

Early Childhood	234,967
Special Education (Local)	114,163,917
Special Education (Tuition and Board)	11,718,967
Vocational Education	23,277,908
Transportation Operating	56,881,377
Bus Purchases	4,500,000

Program Costs Total	210,777,136
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Adjusted Program Costs

Less percentage reduction pursuant to the Maine Revised Statutes, Title 20-A, section 15603, subsection 26-A, paragraph F	(42,682,370)
Plus amount shifted to Transportation Operating	4,500,000

Adjusted Program Costs Total	172,594,766
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Debt Service Costs

Principal and Interest	63,404,830	Private School Services	201,000
Approved Leases	5,141,798	Special Education Hardship Grants	-0-
Insured Value Factor	2,022,516	Special Education Tuition and Board for State Wards and Other Pupils Placed Directly by the State	9,242,881
Debt Service Costs Total	<u>70,569,144</u>	State Agency Clients	12,080,948
Adjusted Debt Service Costs		Out-of-District Placements	1,474,000
Less percentage reduction of insured value factor pursuant to the Maine Revised Statutes, Title 20-A, section 15603, subsection 26-A, paragraph F	(409,559)	Long-term Drug Treatment Centers	55,000
Adjusted Debt Service Costs Total	<u>70,159,585</u>	Total Adjustments	<u>23,303,829</u>
Combined Allocations	998,402,831	TOTAL RECOMMENDED FUNDING LEVEL	<u>548,118,848</u>
Minimum State Allocation	988,911	Estimated Construction Audit Recoveries	-0-
TOTAL ALLOCATION	<u>999,391,742</u>	TOTAL APPROPRIATION	<u>\$548,118,848</u>
Sec. J-5. Subsidy indexes. This section establishes mill rates as follows: Operating cost millage, 5.02 mills; program millage limit, 1.03 mills; and debt service millage, 0.48 mills.		Sec. J-7. Limit of State's obligation. If the State's continued obligation for any individual program contained in sections 2 and 4 of this Part 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 2 and 4 may not lapse but must be carried forward to be used for the same purpose.	
Sec. J-6. Appropriation. The appropriation provided for General Purpose Aid for Local Schools for the fiscal year beginning July 1, 1996 and ending June 30, 1997 is calculated as follows.		Sec. J-8. Appropriation. Sections 1 to 5 of this Part may not 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, 1996 and ending June 30, 1997.	
1996-97		Sec. J-9. Education in Unorganized Territory; lapsed balances. Notwithstanding any other provision of law, \$683,154 of unencumbered balance forward from fiscal year 1994-95 in the Education in Unorganized Territory account in the Department of Education lapse to the General Fund in fiscal year 1995-96.	
STATE ALLOCATION	523,996,108	Sec. J-10. General Purpose Aid for Local Schools; lapsed balances. Notwithstanding any other provision of law, \$1,100,000 in fiscal year 1995-96 in General Purpose Aid for Local Schools account lapses to the General Fund as a result of construction audit recoveries.	
Adjustment to Maintain State Share of Operating Cost Allocation	818,911		
Total Adjusted State Allocation	<u>524,815,019</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			

PART K

Sec. K-1. 2 MRSA §6, sub-§4, as repealed and replaced by PL 1995, c. 502, Pt. E, §1 and Pt. H, §1, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director, Bureau of Parks and Lands;

Director, Bureau of Employee Relations;

Director, Bureau of Air Quality;

Director, Bureau of Land and Water Quality;

Director, Bureau of Remediation and Waste Management;

Deputy Commissioner, Environmental Protection;

Director, Office of Consumer Credit Regulation; and

Director, Office of Licensing and Registration.

PART L

Sec. L-1. 36 MRSA §2801-A, sub-§1, as amended by PL 1995, c. 368, Pt. W, §9, 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. L-2. 36 MRSA §2801-A, sub-§1-A, as enacted by PL 1995, c. 368, Pt. RR, §1, is amended 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. L-3. 36 MRSA §2801-A, sub-§4, as corrected by RR 1991, c. 1, §56, is amended to read:

4. Basis of assessments; reporting. The Bureau of Taxation shall base each hospital's final assessment on the final decision and order of the ~~Maine Health Care Finance Commission~~ Department of Human Services issued after the close of a payment year to determine compensation by a hospital with its revenue limits and the final obligations of its payors according to Title 22, section 396-I. The ~~commission~~ department shall promptly report its final decision to the Bureau of Taxation. Upon notice, the Bureau of Taxation shall promptly report to the affected hospital the ~~Maine Health Care Finance Commission's~~ department's final decision and order as it affects the final assessment of the hospital under this section for the payment year involved.

If the estimated assessment paid exceeds the actual liability, a refund must be authorized by the Bureau of Taxation in the amount of the excess payment. The refund must be paid from the Medical Care - Payments to Providers Special Revenue Account.

If the estimated assessment paid is less than the actual liability, the underpayment must be assessed and payment to the Bureau of Taxation is due within 30 days of notice.

Sec. L-4. 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, Other Special Revenue account to transfer available allocation balances 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. L-5. 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, Other Special Revenue account to the appropriate mental health programs to satisfy consent decree obligations and plans. The transfers and allotment of available funds must be implemented by financial order upon the recommendation of the State Budget Officer and approval of the Governor subject to review by the Joint Standing Committee on Appropriations and Financial Affairs. This financial order must include a specific plan outlining how the funds will be expended. This financial order takes effect upon approval by the Governor.

Sec. L-6. 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	4,312,501	3,906,495
Medical Care - Payments to Providers			Provides funds for the federal match of Medicaid eligible class members of the Augusta Mental Health Institute - Consent Decree.		
All Other	(\$1,617,295)	(\$1,462,780)			
Provides for the deappropriation of funds to be offset from the payment of the General Fund share of the hospital assessments from the Augusta Mental Health Institute and the Bangor Mental Health Institute.					
DEPARTMENT OF HUMAN SERVICES TOTAL	<u>(1,617,295)</u>	<u>(1,462,780)</u>	DEPARTMENT OF HUMAN SERVICES TOTAL	<u>4,312,501</u>	<u>3,906,495</u>
			TOTAL ALLOCATION	<u>4,312,501</u>	<u>3,906,495</u>
			Sec. L-8. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Part.		
				1995-96	1996-97
DEPARTMENT OF HUMAN SERVICES TOTAL	<u>(1,617,295)</u>	<u>(1,462,780)</u>	EXECUTIVE DEPARTMENT		
MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF			Office of Substance Abuse		
Disproportionate Share - Augusta Mental Health Institute			All Other	249,868	226,295
All Other	839,980	715,587	Provides funds for substance abuse treatment services for class members of the Augusta Mental Health Institute - Consent Decree.		
Provides funds for the payment of the General Fund share of the hospital assessment.					
Disproportionate Share - Bangor Mental Health Institute			EXECUTIVE DEPARTMENT, TOTAL	<u>249,868</u>	<u>226,295</u>
All Other	777,315	747,193	HUMAN SERVICES, DEPARTMENT OF		
Provides funds for the payment of the General Fund share of the hospital assessment.			Elder and Adult Services - Bureau of		
DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES TOTAL	<u>1,617,295</u>	<u>1,462,780</u>	All Other	249,869	226,296
			Provides funds for support services for class members of the Augusta Mental Health Institute - Consent Decree.		
TOTAL APPROPRIATIONS	<u>-0-</u>	<u>-0-</u>	Medical Care - Payments to Providers		
			All Other	1,617,295	1,462,780
			Provides funds from the hospital assessment paid by the Augusta Mental Health Institute and the Bangor Mental Health Institute.		

Sec. L-7. Allocation. The following funds
are allocated from the Federal Expenditure Fund to
carry out the purposes of this Part.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		

**DEPARTMENT OF HUMAN
SERVICES,
TOTAL**

1,867,164	1,689,076
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**MENTAL HEALTH AND
MENTAL RETARDATION,
DEPARTMENT OF**

Augusta Mental Health Institute

All Other	1,274,554	1,086,021
Provides funds for the payment of the hospital assessment.		

Bangor Mental Health Institute

All Other	1,224,129	1,176,933
Provides funds for the payment of the hospital assessment.		

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

2,498,683	2,262,954
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TOTAL ALLOCATION	\$4,615,715	\$4,178,325
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Sec. L-9. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 36, section 2801-A, subsection 1 applies retroactively to July 1, 1995.

PART M

Sec. M-1. 12 MRSA §6141, first ¶, as enacted by PL 1985, c. 677, §1, is amended to read:

The commissioner shall establish a program of lobster research within the Bureau of ~~Marine Sciences~~ Resource Management. The purpose of this program ~~will be to~~ is to develop reliable scientific information for use in management decisions.

Sec. M-2. Department of Marine Resources; rename programs. Programs in the Department of Marine Resources are renamed as follows: "Administration-Marine Resources" to "Division of Administrative Services"; "Bureau of Marine Development" to "Division of Community Resource Development"; and "Bureau of Marine Sciences" to "Bureau of Resource Management."

PART N

Sec. N-1. 34-B MRSA §3009 is enacted to read:

§3009. Nonlapsing funds

Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year

in the Mental Health Services - Community Medicaid account may not lapse but must be carried forward to be used for the same purposes.

Sec. N-2. 34-B MRSA §6242 is enacted to read:

§6242. Nonlapsing funds

Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in the Mental Health Services - Child Medicaid account may not lapse but must be carried forward to be used for the same purposes.

Sec. N-3. PL 1995, c. 560, Pt. A, §1, under the caption "MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF," in that part relating to "Bath Children's Home," is amended by inserting after the blocked paragraph a new blocked paragraph to read:

The 18 positions are authorized through December 31, 1996 as an interim contingency measure to facilitate transition from a state-operated facility. Notwithstanding any other provision of law, the State Budget Officer is authorized to transfer funding from the Mental Health Services - Child Medicaid program to the appropriate line category within the Bath Children's Home program by financial order to support the cost of operating the Bath Children's Home from July 1, 1996 through December 31, 1996.

Sec. N-4. Bath Children's Home; operation. Notwithstanding the Maine Revised Statutes, Title 34-B, section 1001, subsection 8, paragraph G; Title 34-B, section 6251, subsection 2; and Title 34-B, section 6253-A, or any other provision of law, the Department of Mental Health and Mental Retardation, as an interim contingency measure, may continue operating the Bath Children's Home as a state-operated institution through December 31, 1996.

Sec. N-5. Bath Children's Home; capital investment or improvement prohibited. The Department of Administrative and Financial Services and the Department of Mental Health and Mental Retardation may not make any capital investment or improvement in the Bath Children's Home without specific legislative authorization. The departments

may utilize existing resources to make repairs necessary to address health and safety issues.

PART O

Sec. O-1. 35-A MRSA §116, sub-§8, as amended by PL 1995, c. 368, Pt. L, §1, 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 \$617,680 in revenues for fiscal year 1995-96 and ~~\$625,784~~ \$645,860 in fiscal year 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.

PART P

Sec. P-1. 5 MRSA §150, 2nd ¶, as amended by PL 1995, c. 368, Pt. V, §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 as long as~~ provided that as long as 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; and for fiscal year 1996-97, the sum may not exceed \$190,000,000.

Sec. P-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

TREASURER OF STATE, OFFICE OF

Debt Service - Treasury

All Other	\$8,550,000
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Provides funds to meet the debt service payments related to a \$190,000,000 tax anticipation note for fiscal year 1996-97.

PART Q

Sec. Q-1. PL 1995, c. 560, Pt. K, §83 is enacted to read:

Sec. K-83. Effective date. Part K, sections 1, 3 to 9, 15, 28, 31, 37, 47, 68 and 82 are effective July 1, 1996.

Sec. Q-2. PL 1995, c. 560, Pt. L, §16 is enacted to read:

Sec. L-16. Effective date. This Part is effective July 1, 1996.

Sec. Q-3. Retroactivity. This Part is retroactive to March 25, 1996.

PART R

Sec. R-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 appropriation of funds to offset a deappropriation in Public Law 1995, chapter 368, Part XX.		
HUMAN SERVICES, DEPARTMENT OF		
Medical Care - Payments to Providers		
All Other	(255,000)	(262,000)
Provides for the deappropriation of funds in accordance with Public Law 1995, chapter 368, Part XX.		
PART R		
TOTAL APPROPRIATIONS	\$-0-	\$-0-

PART S

Sec. S-1. 5 MRSA §1664, 2nd ¶, as amended by PL 1995, c. 368, Pt. EE, §2, is further amended to read:

Part 1 must consist of a budget message by the Governor-elect, or the Governor 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 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 comparative statement that presents income source for revenue projections and ~~department or agency~~ appropriation estimates by major program categories. 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 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 that allow a special exclusion, exemption or deduction or provide a special credit, a preferential rate of tax or a deferral of tax liability. The general budget summary 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. S-2. 5 MRSA §1665, sub-§7, as enacted by PL 1995, c. 368, Pt. EE, §3, is amended to read:

7. General Fund and Highway Fund revenue and expenditure forecasts. By ~~December~~ September 30th of each odd-numbered year and May 31st of each

even-numbered 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~~ major program category.

PART T

Sec. T-1. 10 MRSA §2412, sub-§§2 and 3, as enacted by PL 1991, c. 712, §3 and affected by §5, are amended to read:

2. Local sealers account. The state sealer shall deposit all fees from applicants with commercial dispensers in municipalities with duly appointed local sealers into a separate, nonlapsing account, known as the local sealers account. Funds from this account may be used for costs associated with carrying out this subchapter. The state sealer shall deposit all other fees received under this section into the General Fund.

3. Payment from local sealers account. Upon receiving verification from a local sealer that a registered fuel dispenser has been inspected and conforms to standards established for fuel dispensers, the state sealer shall pay to the local sealer \$8 per dispensing nozzle.

PART U

Sec. U-1. Maximus Fund established. The Maximus Fund, referred to in this Part as the "fund," is established in the Department of Administrative and Financial Services as a nonlapsing Federal Expenditure Fund. Revenue received from Maximus-related initiatives that is not otherwise identified as General Fund undedicated revenue by the Legislature must be deposited with the Treasurer of State to the credit of the fund. The State Controller shall make transfers from the fund to General Fund undedicated revenue in amounts equal to appropriations approved by the Legislature from Maximus revenue each fiscal year.

Sec. U-2. Appropriation. The following funds are appropriated from the General 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		
Public Improvements - Planning - Construction - Administration		
All Other	\$100,000	\$900,000
Provides for the appropriation of funds to pay for the cost of maintaining and operating the Pineland facility beginning March 1996; also provides funds to be used only for the cleanup of problems that pose imminent health risks related to the Pineland property.		
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL		
	100,000	900,000
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children - Foster Care		
All Other		273,999
Provides for the appropriation of funds to increase the foster parent board rate by 10%.		
Child Welfare Services		
All Other		395,001
Provides for the appropriation of funds to increase the foster parent board rate by 10%.		
Child Welfare Services		
All Other		450,000
Provides for the appropriation of funds to prevent children from coming into state custody.		
Purchased Social Services		
All Other		500,000
Provides for the appropriation of funds for		

purchased community-based services such as mental health counseling, evaluations, parent education, home-based services, etc.		contractual services in support of the Human Services Caseworker function.	
Purchased Social Services		Social Services - Regional	
All Other	200,000	Positions - Legislative Count	(19.0)
Provides for the appropriation of funds for visitation centers to provide safe, supervised visitation between children and their parents where child abuse and neglect is an issue.		Personal Services	680,264
		All Other	51,356
Purchased Social Services		TOTAL	731,620
All Other	200,000	Provides for the appropriation of funds to establish 17 Human Services Caseworker positions and 2 Human Services Casework Supervisor positions to move children to permanent homes through return home, adoption, long-term foster care and preparation for adulthood.	
Provides for the appropriation of funds for community-based purchased services for post-adoptive families.		DEPARTMENT OF HUMAN SERVICES	
Purchased Social Services		TOTAL	4,253,369
All Other	300,000	JUDICIAL DEPARTMENT	
Provides for the appropriation of funds to purchase specialized community-based treatment and intervention services for youth leaving the Maine Youth Center.		Courts - Supreme, Superior, District and Administrative	
Social Services - Regional		Positions - Legislative Count	(4.0)
Positions - Legislative Count	(20.0)	Personal Services	290,000
Personal Services	721,848	Provides for the appropriation of funds to add 2 District Court Judges and 2 Assistant Clerk positions for child protective proceedings. These 2 new judge positions, or their equivalent through the use of active retired judges, must be dedicated to increasing the current level of judicial activity related to child protective and related cases.	
All Other	51,356	Courts - Supreme, Superior, District and Administrative	
TOTAL	773,204	All Other	33,333
Provides for the appropriation of funds to establish 17 Human Services Caseworker positions and 3 Human Services Casework Supervisor positions to respond to unassigned referrals of child abuse and neglect.		Provides for the appropriation of funds for transcription services to expedite the production of transcripts on child protection cases.	
Social Services - Regional			
All Other	429,545		
Provides for the appropriation of funds for			

**Courts - Supreme, Superior,
District and Administrative**

All Other	33,333
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Provides for the appropriation of funds to restructure and provide training and supervision for the court-appointed special advocate program.

**JUDICIAL DEPARTMENT
TOTAL**

356,666

SECTION

TOTAL APPROPRIATIONS	\$100,000	\$5,510,035
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PART V

Sec. V-1. Department of Administrative and Financial Services; lease-purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services in cooperation with the Treasurer of State may enter into financing arrangements for the acquisitions of computer hardware, peripheral equipment and software for the Division of Data Processing. The financing agreement may not exceed 3 years in duration and \$2,600,000 in principal costs. The interest rate may not exceed 6.0% and total interest costs may not exceed \$312,000. The annual principal and interest costs must be paid from the appropriate line category allocations in the Division of Data Processing Internal Service Fund account.

Sec. V-2. Department of Administrative and Financial Services; lease-purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services in cooperation with the Treasurer of State may enter into financing arrangements for the acquisition of motor vehicles for the Central Motor Pool. The financing agreement may not exceed 4 years in duration and \$2,000,000 in principal costs. The interest rate may not exceed 6.0% and total interest costs may not exceed \$300,000. The annual principal and interest costs must be paid from the appropriate line category allocations in the Central Motor Pool Internal Service Fund account.

PART W

Sec. W-1. State employees health insurance plan; savings in fiscal year 1996-97. General Fund or Highway Fund savings realized in fiscal year 1996-97 from the competitive bid of the state employees health insurance plan, in accordance with Public Law 1995, chapter 368, Part G, section 15, must be transferred from each affected General Fund account into the Maine Rainy Day Fund program and from each affected Highway Fund account into the

Highway Fund unappropriated surplus. The State Budget Officer shall calculate the amounts that apply against each affected account based on the proportionate share of employer health insurance costs in the Personal Services appropriations and allocations of the affected accounts and shall cause the calculated amounts to be transferred from each affected account by financial order. The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with a report of the transferred amounts no later than December 31, 1996.

PART X

Sec. X-1. 4 MRSA §157, sub-§1, ¶A, as amended by PL 1993, c. 675, Pt. B, §3, is further amended to read:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, shall appoint to the District Court ~~25~~ 27 judges. At least one judge must be appointed from each district who is a resident of the district, except that in District 3 there must be 2 judges appointed who are residents of the district; in District 6 there must be 2 judges appointed who are residents of the district; and in District 9 there must be 2 judges appointed who are residents of the district. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

Sec. X-2. Effective date. This Part takes effect July 1, 1996.

PART Y

Sec. Y-1. Division of Deafness; services provided. The Division of Deafness, in moving to the Department of Labor, must continue to provide the services currently provided to the deaf community, including support for the advisory council for the Division of Deafness, either directly or through contract. Legislative approval is necessary to reduce these services. The Division of Deafness shall consult with the advisory council in developing any restructuring or alternative funding plans.

PART Z

Sec. Z-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		
Support Systems		
Positions - Legislative Count	(1.0)	(1.0)
Personal Services	\$10,825	\$47,715
All Other	500	1,500
Provides funds to establish one Education Program Coordinator - Construction position to provide technical support related to school construction to school administrative units.		
DEPARTMENT OF EDUCATION TOTAL	<u>\$11,325</u>	<u>\$49,215</u>

PART AA

Sec. AA-1. PL 1995, c. 99, Pt. D, §§2 to 4 are repealed.

Sec. AA-2. PL 1995, c. 99, Pt. D, §5 is amended to read:

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 only if needed due to actions authorized in Public Law 1995, chapters 502 and 560 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 due to actions authorized in Public Law 1995, chapters 502 and 560, 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. AA-3. 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****Productivity Realization Task Force**

All Other (\$58,700)

Deappropriates funds no longer required by the Productivity Realization Task Force.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES TOTAL(\$58,700)**EXECUTIVE DEPARTMENT****Administration - Executive Governor's Office**

Positions - Legislative Count (-1.0)

Provides for the elimination of one position in the Office of the Governor.

EXECUTIVE DEPARTMENT TOTAL-0-**TOTAL APPROPRIATIONS**(\$58,700)**PART BB**

Sec. BB-1. PL 1995, c. 560, Pt. I, §§5 to 13 and 18 are repealed.

Sec. BB-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97
JUDICIAL DEPARTMENT		
Courts - Supreme, Superior, District and Administrative		
All Other	\$21,284	\$51,083
Appropriates funds to offset a deappropriation in Public Law 1995, chapter 560, Part A, section 1. This appropriation will keep district courts located in Madawaska and Livermore Falls operational.		

PART CC

Sec. CC-1. 22 MRSA §6-C is enacted to read:

§6-C. Audit, Contracting and Licensing Service Center

1. Establishment. The Audit, Contracting and Licensing Service Center, referred to in this section as the "service center," is established to provide auditing, licensing and contracting services to the department and the Department of Mental Health and Mental Retardation, referred to in this section as the "departments." Auditing, contracting and licensing services include, but are not limited to, program audits, performance-based contracting, licensing, complaint investigations and other functions as may be determined jointly by the commissioners of the departments, except that administrative hearing functions may not be transferred to the service center. The service center's purpose is to provide a single point of access for purchasing social services and to coordinate licensing and auditing visits for social service providers in a cost-effective manner to the departments. The service center is under the joint authority and direction of the commissioners of the departments or their designees. The commissioners of the departments, by unanimous decision, shall employ a director of the service center, who is subject to the Civil Service Law.

2. Transfer of property. The commissioners of the departments shall approve the transfer of property and equipment as needed for the operation of the service center.

3. Contracting function. The contracting unit of the service center shall provide technical assistance to the bureaus of the department and to the Department of Mental Health and Mental Retardation in procuring, distributing and monitoring all state and federal funds. The bureaus of the department and the Department of Mental Health and Mental Retardation

retain responsibility for policy direction and decision-making authority regarding funding and services.

4. Repeal. This section is repealed June 30, 1999.

Sec. CC-2. Effective date. Section 1 of this Part, which enacts the Maine Revised Statutes, Title 22, section 6-C, takes effect immediately for the purposes of initiating necessary implementation, including transfer of positions and hiring of personnel. The Audit, Contracting and Licensing Service Center becomes operational for all other purposes July 1, 1996.

Sec. CC-3. Department of Human Services as fiscal agent. The Department of Human Services shall serve as fiscal agent of the Audit, Contracting and Licensing Service Center for the Department of Human Services and the Department of Mental Health and Mental Retardation. The fiscal agent shall perform such functions as processing payment vouchers and contract documents, handling personnel and payroll matters, providing financial management service and performing other related, required functions as agreed upon by the 3 entities.

Sec. CC-4. Transfer of positions. Notwithstanding any other provision of law, the Department of Mental Health and Mental Retardation and the Office of Substance Abuse are authorized, by financial order, to transfer to the Department of Human Services the positions recommended by the Productivity Realization Task Force that are necessary for the proper operation of the Audit, Contracting and Licensing Service Center. A listing of the positions is on file in the Bureau of the Budget.

Sec. CC-5. Report on service center operation. The Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation shall report to the joint standing committee of the Legislature having jurisdiction over human resource matters on January 1, 1997 and January 1, 1998 on the operation of the Audit, Contracting and Licensing Service Center established in this Part. The report must address adequacy of staffing, improved service to the public and administrative efficiency.

Sec. CC-6. Extension of responsibility. The transfer of functions from the Department of Human Services and the Department of Mental Health and Mental Retardation to the Audit, Contracting and Licensing Service Center pursuant to this Part also extends the authority and responsibility for those functions to the service center.

Sec. CC-7. Report on statutory changes. The Commissioner of Human Services and the Commissioner of Mental Health and Mental Retardation shall report to the joint standing committee of the

Legislature having jurisdiction over human resource matters by December 1, 1996 on the legislation necessary to correct references to the Department of Human Services and the Department of Mental Health and Mental Retardation and to the commissioners of those departments with regard to the functions of the service center.

PART DD

Sec. DD-1. 26 MRSA §1192, sub-§6-D, as enacted by PL 1989, c. 502, Pt. A, §110, is amended to read:

6-D. Prohibition against disqualification of individuals in approved training. Notwithstanding any provisions of this chapter, the acceptance of training for opportunities available under section 2015-A 2031 is deemed to be acceptance of training with state approval under federal or state law relating to unemployment benefits.

Sec. DD-2. 26 MRSA §1197, sub-§8, as enacted by PL 1993, c. 710, §2, is repealed.

Sec. DD-3. 26 MRSA §1197, sub-§8-A is enacted to read:

8-A. Grievance procedure. All determinations under this section must be made promptly in writing. A claimant who is aggrieved by any decision or action made under this section may appeal as provided in this subsection.

A. A person who requests or receives training or supportive services under this section must be given written notice describing the right and procedure of appeal provided by this subsection. This notice must:

- (1) Be uniform throughout the State;
- (2) Be written in language that is clear and understandable and have a readability score, as determined by a recognized instrument for measuring adult literacy reading levels, equivalent to no higher than a 6th-grade level; and
- (3) Include a statement that:
 - (a) Any decision regarding the type of training or the type, amount or duration of support services offered may be appealed;
 - (b) Hearings provided under paragraph C will be conducted by an impartial hearing officer whose decision may be appealed to the court; and

(c) The person may be eligible to receive free legal assistance in pursuing an appeal. This statement must also provide a list of organizations that provide legal assistance to persons of low income.

B. A person who requests or receives training or supportive services under this section may obtain a review of any decision made by the job training agency related to those services. When an individual requests a review, the agency shall promptly investigate and attempt to resolve the complaint informally. If the problem is not resolved to the complainant's satisfaction through this information process, a hearing to review the agency's decision must be scheduled before an impartial hearing officer as provided in paragraph C.

C. A hearing provided under this subsection must be held pursuant to the Maine Administrative Procedure Act.

Sec. DD-4. 26 MRSA c. 25, sub-c. II, as amended, is repealed.

Sec. DD-5. 26 MRSA c. 25, sub-c. IV is enacted to read:

SUBCHAPTER IV

GOVERNOR'S TRAINING INITIATIVE PROGRAM

§2031. Governor's Training Initiative Program

1. Program established. The Governor's Training Initiative Program, referred to in this section as the "program," is established to encourage high-quality job creation and expansion by directly linking the education and training resources of this State to job opportunities. The program develops and coordinates training for firms intending to expand or locate in this State, reorganize a workplace to remain competitive or upgrade worker skills by providing essential work competencies such as computer literacy, problem-solving strategies, critical thinking skills, math and science proficiency and team-building skills.

2. Administration. The program is administered jointly by the Department of Labor and the Department of Economic and Community Development under rules and operating procedures adopted by the Commissioner of Labor and the Commissioner of Economic and Community Development. Administrative costs are limited to 5% of program funds.

3. Interdepartmental review team. An application for funding under the program must be reviewed by an interdepartmental review team. The review team consists of 2 representatives from the Department of Labor, one of whom must be from the Division of Labor Market Information Services, and 2 representatives from the Department of Economic and Community Development.

4. Criteria for program funding. The following criteria must be demonstrated to the committee by an applicant at the time of application. An applicant shall:

- A. Work with the Department of Labor to analyze the occupational skills of the unemployed work force in the designated labor market;
- B. Provide a statement of commitment to long-term operation in this State; and
- C. Comply with any other criteria that has been adopted by the Commissioner of Labor in accordance with the Maine Administrative Procedure Act.

5. Selection preference. Preference must be given to an applicant that substantiates one or more of the following at the time of application:

- A. Formation of a local project partnership;
- B. Employer willingness to leverage matching funds;
- C. Investment in the lifelong learning and skills development of citizens of this State;
- D. An increase in the local education and training capacity to support more than one employer that is caused by a proposed project;
- E. Provision of high-wage or high-skill employment, employee benefits and job security;
- F. Employer intention to expand or locate in economically depressed areas of this State;
- G. Employer willingness to hire new labor force entrants, economically disadvantaged individuals, persons with disabilities or dislocated workers; or
- H. Employer willingness to provide a registered apprenticeship for current employees or new hires.

6. Services. Services that may be funded by the program include, but are not limited to:

- A. Recruitment;
- B. Screening and assessment;

C. Workplace literacy;

D. Workplace safety;

E. Technical training;

F. On-the-job training;

G. Higher education;

H. Essential work competencies;

I. Job task analysis;

J. Coordination of employer consortia to access specialized training;

K. Technical assistance on work force capacity issues;

L. Technical assistance on worker training plans;

M. Small business training and technical assistance; and

N. Supportive services.

7. Program standards. The standards used by the Department of Labor and the Department of Economic and Community Development to evaluate the success of a project must include, but are not limited to:

A. The number of jobs created or retained in the project and participant demographics;

B. The cost per participant;

C. The average wage paid and benefits provided to participants at training completion;

D. The skills required by the participant to obtain jobs through the training program;

E. The number and percentage of participants who do not complete each program; and

F. The return on investment.

8. Eligibility for funding. Applicants eligible to receive funding from the program include, but are not limited to, employers, regional and local economic development agencies or partnerships, community-based organizations, job training service providers, registered apprenticeship service providers, local adult education providers and postsecondary education institutions.

An applicant that is not a business shall demonstrate, in partnership with a business or a consortium of businesses, the ability to link training services with actual job creation, expansion, upgrade or retention.

Training provided under this section is considered approved training under the unemployment insurance laws and the laws regarding dislocated workers administered by the Department of Labor.

9. Report. The Commissioner of Labor and the Commissioner of Economic and Community Development shall provide, to the joint standing committee of the Legislature having jurisdiction over labor matters and the joint standing committee of the Legislature having jurisdiction over business and economic development matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, an annual report by March 1st of each year, which must include, for each business assisted under this subchapter, the name and location of each business, the number of individuals trained or retrained, the dollar amount expended and, when applicable, the number of new jobs created.

10. Rules. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. DD-6. 26 MRSA §2159-D, as enacted by PL 1993, c. 410, Pt. T, §2, is amended to read:

§2159-D. Project goals

The Health Occupations Training Project is a training strategy to increase the supply of health care workers by providing Maine citizens with job training opportunities in health care occupations. The project goal is to provide skill training to participants who are either unemployed and want to enter the health care field or are employed health care workers who want to upgrade their skills. Preference must be given to participants in the state job training system during selection if they have met the minimum criteria for program entry and have met the application deadline as determined in the grant proposal. For purposes of this chapter, the state job training system includes job training programs such as the Job Training Partnership Act, ~~the Maine Training Initiative, the Strategic Training for Accelerated Reemployment Program and the ASPIRE-JOBS program.~~

Sec. DD-7. 26 MRSA §2171, sub-§2, as enacted by PL 1989, c. 408, §3, is repealed.

Sec. DD-8. 26 MRSA §2171, sub-§4, as amended by PL 1993, c. 410, Pt. O, §2, is repealed.

Sec. DD-9. Contingent account; job development training. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, an amount not to exceed \$2,000,000 in fiscal year 1996-97 may be transferred from the State Contingent Account, job development training, as provided for in Title 5, section 1507, to the Governor's Training Initiative Program in the Department of Labor to be made

available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for training initiatives.

Sec. DD-10. Transition provision; contracts and agreements. All contracts and agreements currently in effect with respect to the State Contingent Account and the Maine Training Initiative and the Strategic Training for Accelerated Reemployment programs of the Department of Labor or any subunit of those programs remain in effect until rescinded, terminated or modified as provided by law.

Sec. DD-11. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

LABOR, DEPARTMENT OF

Maine Training Initiative

Personal Services	(\$50,066)
All Other	(519,162)
Total	(569,228)

Provides for the deappropriation of funds associated with the repeal of the Maine Training Initiative program and the establishment of the Governor's Training Initiative Program.

Strategic Training for Accelerated Reemployment

Personal Services	(232,712)
All Other	(568,888)
Total	(801,600)

Provides for the deappropriation of funds associated with the repeal of the Strategic Training for Accelerated Reemployment program and the establishment of the Governor's Training Initiative Program.

Governor's Training Initiative Program

Personal Services	183,000
All Other	1,187,828
Total	1,370,828

Provides for the appropriation of funds for the establishment of the Governor's Training Initiative Program.

DEPARTMENT OF LABOR

TOTAL \$0-

Sec. DD-12. Effective date. This Part takes effect July 1, 1996.

PART EE

Sec. EE-1. 22 MRSA §3174-P is enacted to read:

§3174-P. Prescription processing service fee

The department must assess each pharmacy a 25¢ per prescription processing service fee on every prescription dispensed under the Medicaid program. Payments made pursuant to this section must be deposited in the Medical Care - Payments to Providers Special Revenue account.

Sec. EE-2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1996-97

HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers

All Other	\$750,000
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Provides for the allocation of funds resulting from the 25¢ per prescription processing service fee authorized in the Maine Revised Statutes, Title 22, section 3174-P.

Sec. EE-3. Effective date. This Part takes effect July 1, 1996.

PART FF

Sec. FF-1. 20-A MRSA §8202, sub-§2, as repealed and replaced by PL 1995, c. 368, Pt. LL, §2, is amended to read:

2. Tuition; room and board; funding.

Students from this State may attend the school free of tuition charges. ~~Funding~~ Additional funding for students from this State ~~is may be provided within~~ amounts appropriated for that purpose 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 and other costs paid for all students is limited to the amount appropriated for this purpose. To be eligible for ~~state funded tuition~~ state funding 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. FF-2. 20-A MRSA §8202, sub-§4 is enacted to read:

4. Scholarship fund. The school must demonstrate its ability to raise private funds to support a scholarship fund. Based on this ability, the Legislature may provide General Fund appropriations to the scholarship fund.

PART GG

Sec. GG-1. P&SL 1995, c. 32, §2 is repealed.

PART HH

Sec. HH-1. 38 MRSA §1310-F, sub-§1-B, as enacted by PL 1993, c. 732, Pt. C, §14, is amended to read:

1-B. Closure cost-share fraction. Subject to the availability of funds, the commission shall issue grants or payments to eligible municipalities for the following percentages of planning and implementation costs of closure.

A. Notwithstanding paragraph B, the state cost share is 75% for the following:

- (1) Costs incurred by a municipality prior to July 1, 1994;
- (2) Costs incurred at any time by a municipality pursuant to a written landfill closure agreement between the municipality and the department executed prior to July 1, 1994; and
- (3) ~~Costs incurred pursuant to licensure requirements for landfills licensed by the department to operate after July 1, 1994;~~
- (4) Costs other than those described in paragraph B if approved in writing by the department; ~~and,~~
- (5) ~~Costs incurred by a municipality for a landfill closure not required to occur by October 9, 1994 by federal or state law, rule or regulation.~~

B. Until January 1, 1996, the state cost share is 50%, and for closure costs incurred after that date until January 1, 1997, the State's cost share is 30% for the following:

- (1) The cost of materials and the cost of placement of materials associated with the physical construction of that portion of a cover over a landfill that meets the minimum landfill cover permeability of 1 x 10(-5)cm./sec. and the thickness standards of 40 Code of Federal Regulations, Part 258, Section 258.60(a).

C. The State's cost share is 0% for costs incurred for all work relating to landfill closure procedures after January 1, 1998, unless the municipality and the department have agreed to an alternative closure schedule eligible for state cost share extending beyond January 1, 1998, as specified in a consent agreement, department order or license, schedule of compliance or other agreement.

PART II

Sec. II-1. 30-A MRSA §6006-B, sub-§2, ¶¶G and H, as enacted by PL 1991, c. 605, §14, are amended to read:

G. To pay the costs of the bank associated with the administration of the revolving loan fund and projects financed by it provided that no more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% of any capitalization grants provided by the Federal Government for deposit in the revolving loan fund is used for these purposes; ~~and~~

H. To pay the costs required under the federal Safe Drinking Water Act of 1974, 42 United States Code, Sections 300f to 300j-9, as amended, regarding the treatment of drinking water or other federal law or program that provides money for deposit to the fund for the purposes of this section; ~~and~~

Sec. II-2. 30-A MRSA §6006-B, sub-§2, ¶I is enacted to read:

I. To provide training and technical assistance to public water systems serving a population of 10,000 or fewer through the statewide rural water association. The statewide rural water association may use an amount equal to 1% of the federal capitalization grant. Training and technical assistance must be consistent with the annual Department of Human Services public water system supervision, or "PWSS," work plan.

Sec. II-3. Effective date. This Part takes effect only upon enactment in 1996 of amendments to the federal Safe Drinking Water Act.

PART JJ

Sec. JJ-1. 5 MRSA §3360-E, 2nd ¶, as enacted by PL 1991, c. 806, §3, is amended to read:

Within the limits specified in this section, the spouse, child ~~or~~, parent or estate of a person who dies as the direct result of a specified crime may seek compensation for unreimbursed medical, medically related and funeral expenses incurred by the spouse, child ~~or~~, parent or estate. Only a spouse, minor child, dependent parent or dependent adult child may be awarded compensation for lost wages of a deceased person.

Sec. JJ-2. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 5, section 3360-E, 2nd paragraph takes effect retroactively to January 1, 1996.

PART KK

Sec. KK-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	1995-96	1996-97	
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF			Bureau of Elder and Adult Services
Maine Milk Commission			All Other 50,000 466,395
All Other		\$3,150,000	Provides for the appropriation of funds to support the cost of continuing the housing special needs payment through June 30, 1997.
Provides for the appropriation of funds to the Maine Milk Commission to be deposited in the Maine Milk Pool. The funds must be distributed at the rate of an additional \$100,000 per month in the months of July to September 1996, inclusive; at the rate of \$250,000 per month in the months of October to December 1996, inclusive; and at the rate of \$350,000 per month in the months of January to June 1997, inclusive.			Provides for the appropriation of funds for the long-term care ombudsman program for Alzheimer's respite, adult daycare and homemaker services.
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL		3,150,000	Intermediate Care - Payments to Providers
CORRECTIONS, DEPARTMENT OF			All Other 250,000 3,206,160
Community Based Corrections			Provides for the appropriation of funds for individuals who are eligible for care based on a supplemental dementia assessment.
All Other		1,500,000	Aid to Families with Dependent Children
Provides funds for reimbursement to the county jails pursuant to the Community Corrections Act.			All Other (364,545)
DEPARTMENT OF CORRECTIONS TOTAL		1,500,000	Provides for the deappropriation of funds due to the change in the federal match rate from 63.32% to 63.62%.
HUMAN SERVICES, DEPARTMENT OF			Aid to Families with Dependent Children - Foster Care
Aid to Families with Dependent Children			All Other (71,216)
All Other		616,000	Provides for the deappropriation of funds due to the change in the federal match rate from 63.32% to 63.62%.
			Intermediate Care - Payments to Providers
			All Other (707,664)
			Provides for the deappropriation of funds due to the change in the federal match rate from 63.32% to 63.62%.
			Intermediate Care - Payments to Providers

All Other	582,586		Education Research Institute	
Provides for the appropriation of funds to cover a shortfall based on projected expenditures.			All Other	75,000
Intermediate Care - Payments to Providers			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.	
All Other	(5,566,339)		LEGISLATURE	
Provides for the deappropriation of funds due to a projected surplus in fiscal year 1996-97.			TOTAL	75,000
Medical Care - Payments to Providers			MENTAL HEALTH AND MENTAL RETARDATION, DEPARTMENT OF	
All Other	(1,965,817)		Augusta Mental Health Institute	
Provides for the deappropriation of funds due to the change in the federal match rate from 63.32% to 63.62%.			Personal Services	252,365
State Supplement to Federal Supplemental Security Income			All Other	28,217
All Other	(15,390)		TOTAL	280,582
Provides for the deappropriation of funds due to the change in the federal match rate from 63.32% to 63.62%.			Provides for the appropriation of funds to keep one 15-bed unit open through January 31, 1997.	
State Supplement to Federal Supplemental Security Income			Bangor Mental Health Institute	
All Other			Personal Services	177,221
Provides for the appropriation of funds to cover a shortfall based on projected expenditures.			All Other	33,399
DEPARTMENT OF HUMAN SERVICES			TOTAL	210,620
TOTAL	1,478,639	(1,420,926)	Provides for the appropriation of funds as a partial offset to a deappropriation in Part A to continue to staff Ward K-1 through January 31, 1997.	
JUDICIAL DEPARTMENT			Mental Health Services - Children	
Courts - Supreme, Superior, District and Administrative			All Other	675,000
All Other		50,000	Provides for the appropriation of funds for children's respite services.	
Appropriates funds to allow the Judicial Department to contract for transcription services.			DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION	
JUDICIAL DEPARTMENT			TOTAL	1,166,202
TOTAL		50,000	PUBLIC SAFETY, DEPARTMENT OF	
LEGISLATURE			Capitol Security - Bureau of	
			Positions - Legislative Count	(0.5)
				(0.5)

Personal Services	3,629	14,924
Provides for the appropriation of funds to restore one Clerk Typist II position to full time and return one Capitol Security Officer position back to a Capitol Security Sergeant position.		
DEPARTMENT OF PUBLIC SAFETY		
TOTAL	<u>3,629</u>	<u>14,924</u>
TRANSPORTATION, DEPARTMENT OF		
Administration - Ports and Marine Transportation		
All Other		275,000
Provides additional funds for the Maine State Ferry Service.		
DEPARTMENT OF TRANSPORTATION		
TOTAL		<u>275,000</u>
SECTION		
TOTAL APPROPRIATIONS	<u>1,482,268</u>	<u>4,810,200</u>

Sec. KK-2. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Part.

	1995-96	1996-97
HUMAN SERVICES, DEPARTMENT OF		
Aid to Families with Dependent Children		
All Other		1,077,238
Provides for the allocation of funds to support the cost of continuing the housing special needs payment through June 30, 1997.		
Intermediate Care - Payments to Providers		
All Other	431,570	5,606,814
Provides for the allocation of funds for individuals who are eligible for care based on a supplemental dementia assessment.		

Aid to Families with Dependent Children		
All Other		364,545
Provides for the allocation of funds to reflect the change in the federal match rate from 63.32% to 63.62%.		
Aid to Families with Dependent Children - Foster Care		
All Other		71,216
Provides for the allocation of funds to reflect the change in the federal match rate from 63.32% to 63.62%.		
Intermediate Care - Payments to Providers		
All Other	1,005,707	(9,026,544)
Provides for the allocation of funds to reflect a change in the federal match rate, a projected deficit in fiscal year 1995-96 and a projected surplus in fiscal year 1996-97.		
Medical Care - Payments to Providers		
All Other	(36,164,529)	(30,402,225)
Provides for the deallocation of funds to reflect a change in the federal match rate, a projected surplus in fiscal years 1995-96 and 1996-97 and a projected deficit in the State Supplement to Federal Supplemental Security Income in fiscal years 1995-96 and 1996-97.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>(34,727,252)</u>	<u>(32,308,956)</u>
SECTION		
TOTAL ALLOCATIONS	<u>(34,727,252)</u>	<u>(32,308,956)</u>

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

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

Augusta Mental Health Institute

Positions - Other Count	(31.5)
Personal Services	441,327
All Other	49,345

TOTAL	490,672
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Provides for the allocation of funds for 5 Nurse II positions, 3 LPN positions, one Hospital Ward Clerk position, 13 Mental Health Worker I positions, one Clerk Typist II position, one Housekeeper I position, one Laundry Worker I position, one Food Service Worker position, 2 Physician III positions, one Habilitation Aide position, one Psychiatric Social Worker II position, one part-time Psychologist III position and one Carpenter position to keep one 15-bed unit open through January 31, 1997.

Bangor Mental Health Institute

Personal Services	305,670
All Other	57,619

TOTAL	363,289
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Provides for the allocation of funds as a partial offset to a deallocation in Part A to continue to staff Ward K-1 through January 31, 1997.

**DEPARTMENT OF MENTAL
HEALTH AND MENTAL
RETARDATION**

TOTAL	853,961
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Sec. KK-4. Allocation. The following funds are allocated from the Island Ferry Services Fund to carry out the purposes of this Part.

1996-97

**TRANSPORTATION,
DEPARTMENT OF**

Island Ferry Service Exp.

All Other	275,000
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Provides for the allocation of additional funds resulting from a General Fund appropriation for the Maine State Ferry Service. Approximately \$100,000 must be used for ferry maintenance and \$175,000 must be used to reduce the cost of the proposed fare surcharge.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

\$275,000

PART LL

Sec. LL-1. 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**

Rainy Day Fund Program

Unallocated	\$17,500,000
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PART MM

Sec. MM-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.

Notwithstanding any other statutory provision, funds provided as reimbursement to counties for housing state prisoners must be used to reduce the assessment of each municipality within the county for their due proportion of any county tax payable during the municipal year for which municipal taxes are being raised. County commissioners shall deduct from the total amount required to be assessed for county purposes an amount equal to the amount that the county commissioners estimate will be received pursuant to this subsection.

Sec. MM-2. 34-A MRSA §1210, sub-§2, as amended by PL 1995, c. 449, §1 and affected by §2, 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 commis-

sioner 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.

Notwithstanding any other statutory provision, funds provided as reimbursement to counties for housing state prisoners must be used to reduce the assessment of each municipality within the county for their due proportion of any county tax payable during the municipal year for which municipal taxes are being raised. County commissioners shall deduct from the total amount required to be assessed for county purposes an amount equal to the amount that the county commissioners estimate will be received pursuant to this subsection.

Sec. MM-3. Effective date. Section 2 of this Part takes effect July 1, 1997.

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

Effective April 11, 1996, unless otherwise indicated.

CHAPTER 666

H.P. 993 - L.D. 1404

An Act to Amend the Law Regarding the Lease of Submerged Lands

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

Sec. 1. 5 MRSA §12004-I, sub-§24-E is enacted to read:

24-E.	<u>Submerged</u>	<u>Not</u>	<u>12 MRSA</u>
<u>Environment:</u>	<u>Lands</u>	<u>Autho-</u>	<u>558-C</u>
<u>Natural</u>	<u>Advisory</u>	<u>rized</u>	
<u>Resources</u>	<u>Board</u>		

Sec. 2. 12 MRSA §557-A, as enacted by PL 1991, c. 427, §2, is repealed.

Sec. 3. 12 MRSA §557-B is enacted to read:

§557-B. Submerged Lands Fund

1. Fund established. All revenues from the activities of the bureau under section 558-A must be deposited with the Treasurer of State to be credited to the Submerged Lands Fund, which is established as a nonlapsing, dedicated fund and referred to in this section as the "fund." Any interest earned on this money must be credited to the fund. The fund is administered by the bureau.

2. Permissible uses. Money credited to the fund may be used to manage submerged lands pursuant to section 558-A, provide grants to municipalities pursuant to section 558-B and remove abandoned watercraft pursuant to chapter 202-C.

3. Expenditure of funds. Money in the fund must be expended on the operating expenses of the bureau's submerged lands leasing program pursuant to section 558-A. Any funds available in excess of the amount needed for the bureau's submerged lands operating expenses must be expended in accordance with section 558-B and chapter 202-C.

Sec. 4. 12 MRSA §558-A, sub-§2, ¶A, as amended by PL 1991, c. 430, §2 and affected by §3, is further amended by amending subparagraph (1), division (f) to read:

(f) A reduction factor of ~~40%~~ 2% for upland uses and fill. Upland uses include, but are not limited to, all uses that can operate in a location other than on the waterfront or ~~which that~~ are not essential to the operation of the marine industry. ~~Such~~ These facilities include, but are not limited to, residences, offices, restaurants and parking lots. Fill must include the placement of solid material other than pilings or other open support structures upon submerged lands.

Sec. 5. 12 MRSA §558-A, sub-§2, ¶D, as repealed and replaced by PL 1989, c. 878, Pt. A, §30, is amended to read:

D. The director may establish a reasonable minimum rent to which any lease is subject, but it ~~shall~~ may not exceed \$~~75~~ \$100 per year.

Sec. 6. 12 MRSA §558-A, sub-§2, ¶E is enacted to read:

E. Beginning January 1, 1997, the maximum rent to which any lease is subject may not exceed \$1,200 per year.

Sec. 7. 12 MRSA §558-A, sub-§2-A is enacted to read:

2-A. Lease renewal. A lessee who is in compliance with all terms of that person's lease may apply at any time to renew the lease. The director shall approve the lease renewal if the existing lease complies with, or can be amended to comply with, all applicable laws, rules and public trust principles in effect at the time of renewal application. This subsection applies to all leases in effect on the effective date of this subsection and to all leases executed on or subsequent to the effective date of this subsection.

Sec. 8. 12 MRSA §558-A, sub-§3, as amended by PL 1989, c. 338, §3, is further amended to read:

3. Easements. The director may grant, upon such terms and conditions as the director ~~deems~~ considers reasonable, assignable easements for a term of years not exceeding 30 for the use of submerged and intertidal lands for the purposes permitted in subsection 2. The ~~lessee~~ grantee shall pay an administrative fee of \$50 for each easement at the time of processing and a registration fee of ~~\$25~~ \$50 due every 5 years. The director may refuse to grant an easement for the use of submerged lands if the director determines the easement will unreasonably interfere with customary or traditional public access ways to, or public trust rights in, on or over the intertidal or submerged lands and the waters above those lands. The director may grant an easement for submerged lands if a structure:

A. Is for the exclusive benefit of the abutting upland owner for charitable purposes as defined in the United States Internal Revenue Code, Section 501, (c) (3);

B. Occupies a total of not more than 500 square feet of submerged land for any lawful purpose and is permanent; or

C. Occupies a total of not more than 2,000 square feet of submerged land for the exclusive purpose of commercial fishing activities and is permanent.

Sec. 9. 12 MRSA §558-A, sub-§6, as repealed and replaced by PL 1989, c. 338, §4, is amended to read:

6. Constructive easements. The owners of all structures actually upon submerged and intertidal lands on October 1, 1975, ~~shall be~~ are deemed to have been granted a constructive easement for a term of 30 years on the submerged land directly underlying the structure. Beginning on January 1, 1991, the bureau shall undertake a registration program for all

structures granted constructive easements. Constructive easements ~~shall be~~ are subject to administrative and registration fees for easements pursuant to subsection 3. The director shall develop procedures, rules and registration forms necessary to accomplish the purposes of this subsection. The bureau shall complete the registration of constructive easements on or before December 31, ~~1995~~ 1996.

Sec. 10. 12 MRSA §558-A, sub-§11, as renumbered by RR 1991, c. 2, §36, is amended to read:

11. Revenues. All revenues from the bureau's activities under this section accrue to the Submerged Lands Fund established in section ~~557-A~~ 557-B.

Sec. 11. 12 MRSA §558-C is enacted to read:

§558-C. Submerged Lands Advisory Board

1. Appointment and composition. The Submerged Lands Advisory Board, referred to in this section as the "board" and established by Title 5, section 12004-I, subsection 24-E, consists of 8 members. The director shall serve as an ex officio, nonvoting member. The 7 other members are appointed by the Governor as follows:

A. One member who is a submerged land lessee or grantee;

B. One member who represents the general public;

C. One member who represents anglers, hunters and recreational boaters;

D. One member who represents municipalities;

E. One member with expertise in the subject of public trust, as it pertains to the State's submerged lands;

F. One member who represents commercial fishing; and

G. One member who represents marinas.

2. Terms. Members of the board serve for 3 years and continue serving until a successor is duly appointed and qualified. When a vacancy occurs, the Governor shall fill the vacancy by appointing a member from the same category, listed in subsection 1, as the member who vacated the board and that member serves on the board for the remainder of the term.

3. Compensation. Board members serve without compensation.

4. Purpose. The board shall provide to the director advice and information on the management of submerged lands, including, but not limited to, the following:

A. A fee structure for the leasing of submerged lands that becomes effective when constructive easements expire;

B. The submerged lands lease application process; and

C. An appeals process for the director's decisions relating to submerged lands leases and easements.

5. Chair and officers. The board shall annually choose one of its appointed members to serve as chair for a one-year term. The board may select other officers and designate their duties. The director may not serve as chair or as an officer.

6. Meetings. The board shall meet at least 2 times a year. The board may also meet at other times at the call of the chair or the chair's designee, or the director or the director's designee.

7. Staffing. The bureau shall provide staffing services to the board.

Sec. 12. 12 MRSA §594, sub-§5, as enacted by PL 1991, c. 427, §5, is amended to read:

5. Disposal of watercraft. If the director removes a watercraft from coastal waters under this section, the director may sell the watercraft. Any proceeds from the sale must first be applied to the costs to the State directly related to the expense of removal of the watercraft. The money may then be applied to any liens against the watercraft. Any money that remains must accrue to the Submerged Lands Fund established under section ~~557-A~~ 557-B.

Sec. 13. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 12, section 558-A, subsection 2, paragraphs A and D and subsection 3 take effect January 1, 1997.

Sec. 14. Transition provisions; advisory board. When making initial appointments to the Submerged Lands Advisory Board pursuant to the Maine Revised Statutes, Title 12, section 558-C, the Governor shall make the appointments in accordance with the following: The Governor shall appoint to one-year terms one person who is a submerged land lessee or grantee and one person who represents the general public; the Governor shall appoint to 2-year terms one person who represents anglers, hunters and recreational boaters and one person who represents municipalities; and the Governor shall appoint to 3-year terms one person with expertise in the subject of

public trust, as it pertains to the State's submerged lands, one person who represents commercial fishing and one person who represents marinas. Subsequent appointments for the positions held by these members must be for 3-year terms. The purpose of these initial appointments is to stagger the terms of council members.

See title page for effective date, unless otherwise indicated.

CHAPTER 667

S.P. 637 - L.D. 1645

An Act to Revise Certain Fish and Wildlife Laws

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:

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§20, as amended by PL 1989, c. 782, §1, is further amended to read:

20.	Inland Fish-eries and Wildlife	\$25/Day <u>\$50/Day</u>	12 MRSA §7033-A
	Advisory Council		

Sec. A-2. 12 MRSA §7001, sub-§7, as amended by PL 1995, c. 415, §1, is further amended to read:

7. Endangered species. "Endangered species" means any species of fish or wildlife 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,~~ commissioner to be in danger of extinction throughout all or a significant portion of its range ~~or listed~~ and that is listed as a state endangered species under section 7753, subsection 3.

Sec. A-3. 12 MRSA §7001, sub-§36, as enacted by PL 1979, c. 420, §1, is amended to read:

36. Threatened species. "Threatened species" means any species of fish or wildlife ~~which is that has been determined by the commissioner as~~ likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range and that is listed as a state threatened species under section 7753, subsection 3.

Sec. A-4. 12 MRSA §7034, sub-§1, as amended by PL 1993, c. 574, §5, is further amended to read:

1. Appointment of deputy. The commissioner shall appoint, to serve at the commissioner's pleasure, a Deputy Commissioner of Inland Fisheries and Wildlife, who must be qualified by training and experience in fisheries and wildlife management ~~and~~ or conservation law enforcement. Under the commissioner's direction, the deputy commissioner shall assist in the administration of the department. The deputy commissioner shall serve as the commissioner if the commissioner is disabled or absent or if the office of the commissioner becomes vacant. The commissioner may appoint an appropriate administrative officer in the department to perform the functions of the commissioner if both the commissioner and deputy commissioner are disabled or absent.

Sec. A-5. 12 MRSA §7035, sub-§8, as amended by PL 1991, c. 591, Pt. KK, §1, is further amended to read:

8. Sale of publications. If the commissioner determines it advisable for the more effective dissemination of factual information, information of public interest or information tending to promote better public relations, the commissioner may fix the price, if any, of certain publications and materials of the department, and sell and deliver them. Publications and materials included within this authority are all publications, articles, biological and statistical data, professional and technical service reports by departmental personnel and other materials in the department's possession and pertaining to the department, except publications of the laws in whatever form. These publications may not carry any advertising of a political nature, but may carry

commercial advertising. The commissioner shall accept commercial advertising in the department's general circulation magazine entitled "Maine Fish and Wildlife" and any successor or similar publication developed by the department.

The commissioner may sell or lease video tapes, photographs or negatives owned by the department and may fix the price, if any, giving consideration to their fair market value.

Sec. A-6. 12 MRSA §7035, sub-§13, ¶A, as enacted by PL 1995, c. 436, §1, is amended to read:

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. Regional landowner relations coordinators may be appointed only from the department's recreational safety coordinators and volunteers;
- (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 landowner relations activities, including Landowner Recognition Day; and
- (7) Encourage landowners who only allow access to their property with permission to conspicuously post signs on the property indicating the name and address of the owner or other person with authority to grant permission; and

Sec. A-7. 12 MRSA §7035, sub-§16 is enacted to read:

16. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products such as T-shirts, aprons, coffee mugs and greeting cards when

the express purpose is to accommodate public demand and generate supplemental funds. These funds may not be used for any costs associated with a quarterly magazine produced by the department.

Sec. A-8. 12 MRSA §7064 is enacted to read:

§7064. Illegal disposal of offal; littering

A person who drops, deposits, discards, dumps or otherwise disposes of the carcass, waste parts or remains of a wild animal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, is in violation of the Maine Litter Control Act, Title 17, chapter 80, and is subject to the penalties set forth in that Act.

Sec. A-9. 12 MRSA §7071, sub-§4, as amended by PL 1987, c. 351, is further amended to read:

4. Member of the United States Armed Forces permanently stationed in the State. The following persons are eligible for any trapping, fishing, hunting or combination fishing and hunting license or permit at the resident fee and ~~shall~~ have the same privileges as ~~Maine~~ residents of this State in regard to trapping, hunting and fishing:

A. ~~Any~~ A person serving in the Armed Forces of the United States who is permanently stationed at a military or naval post, station or base in the State; and

B. The spouse and children of that person, ~~provided that if~~ the spouse and children permanently reside with that person.

~~Such a~~ A member of the Armed Forces ~~desiring~~ stationed in the State who desires a trapping, hunting, fishing or combination license or permit shall present certification from the commander of ~~his~~ the member's post, station or base, or from the commander's designated agent, that the person mentioned in the certificate is permanently stationed at that post, station or base. ~~Licenses and permits shall be issued by the clerk or agent of the town in which that military or naval post, station or base is situated.~~

Sec. A-10. 12 MRSA §7072, sub-§3, as amended by PL 1989, c. 440, is repealed.

Sec. A-11. 12 MRSA §7072, sub-§4 is enacted to read:

4. Agents for the purpose of selling licenses. The commissioner shall adopt rules that establish the criteria for selecting agents to sell licenses and permits. Rules adopted under this subsection are

major substantive rules under Title 5, chapter 375, subchapter II-A.

Sec. A-12. 12 MRSA §7073, sub-§5, as amended by PL 1993, c. 419, §2, is repealed and the following enacted in its place:

5. Duplicates. A duplicate license or permit may be obtained by any person who has accidentally lost or destroyed any license or permit issued to that person under this chapter upon payment of a fee of \$2, all of which must be retained by the agent. A duplicate license or permit may be obtained only from the issuer of the original license.

Sec. A-13. 12 MRSA §7074, sub-§1, as repealed and replaced by PL 1985, c. 304, §6, is repealed.

Sec. A-14. 12 MRSA §7074, sub-§1-A is enacted to read:

1-A. Reporting and payment requirements. The commissioner shall adopt rules establishing the reporting requirements for agents and the procedure for payment of all funds collected for the reporting period. If these rules include a requirement that agents must report more frequently than once a month, the commissioner is responsible for all costs associated with the additional reporting requirement, including mailing costs. Rules adopted under this subsection are major substantive rules under Title 5, chapter 375, subchapter II-A.

Sec. A-15. 12 MRSA §7074, sub-§5, as amended by PL 1983, c. 819, Pt. A, §25, is further amended to read:

5. Delinquent agents. ~~If an~~ An agent is delinquent if that agent fails to forward to the commissioner funds collected by him during the previous calendar month before the 15th day of each calendar month, he is delinquent on the 16th day of that month that agent by the date established in rules adopted under subsection 1-A. Failure to remit the funds as provided in this section shall result results in the following sanctions, in addition to any others provided by law.

A. The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.

B. If the agent has not paid the amount owed by the 60th day after ~~he~~ the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

C. If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one calendar year, the commissioner shall:

(1) Terminate the agency for the balance of the year; and

(2) Order that the agency not be renewed for the next year.

Sec. A-16. 12 MRSA §7074, sub-§6, as enacted by PL 1995, c. 455, §3, is repealed.

Sec. A-17. 12 MRSA §7076, sub-§12, as enacted by PL 1985, c. 304, §9, is repealed.

Sec. A-18. 12 MRSA §7101, sub-§5, ¶H-1, as enacted by PL 1995, c. 444, §1, is amended to read:

H-1. Nonresident 3-day small game hunting license, valid for 3 consecutive hunting days

(Permits hunting of all legal species except deer, bear,

turkey, moose,	0	0	\$30	\$30
raccoon and bobcat)				

Sec. A-19. 12 MRSA §7101, sub-§5, ¶H-2 is enacted to read:

H-2. Nonresident seasonal junior firearm big game hunting license

0	0	\$25	\$25
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Sec. A-20. 12 MRSA §7101, sub-§7, as amended by PL 1987, c. 742, §5, is further amended to read:

7. Restrictions. Any resident or nonresident hunter 10 years of age or older and under 16 years of age may hunt with firearms only in the presence of ~~his~~ that hunter's parent or guardian or of a person, at least 18 years of age, approved by ~~his~~ that hunter's parent or guardian. That presence must be unaided by visual or audio enhancement devices, including binoculars and citizen band radios. A hunter who is 16 years of age and who is hunting with a junior hunting license, prior to hunting without the adult supervision required by this section, must complete a hunter safety course.

Sec. A-21. 12 MRSA §7107-A, sub-§4, ¶B, as enacted by PL 1993, c. 574, §13, is amended to read:

B. ~~In 1995 and 1996, the~~ The commissioner shall establish by rule the length of the special muzzle-loading season. The commissioner may establish seasons of different lengths in different regions of the State. The season may extend for

no more than 12 hunting days in any part of the State; and

Sec. A-22. 12 MRSA §7108, sub-§1, as amended by PL 1987, c. 684, §§1 and 4, is further amended to read:

1. Eligibility. Any person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to hunt coyotes at night, except that ~~no~~ a permit may not be issued to any person who has been convicted of a violation of section 7406, subsection 5, within 5 years of the date of application for the permit. ~~A coyote night hunting permit may not be renewed unless the applicant has returned a completed coyote hunting questionnaire from the previous year.~~

Sec. A-23. 12 MRSA §7171, sub-§4, ¶B, as amended by PL 1995, c. 455, §13, is further amended to read:

B. The following restrictions apply to the taking and selling of baitfish under the baitfish wholesaler's license.

(1) Any person engaged in taking, or assisting in taking, live baitfish for resale from inland waters must hold a current baitfish wholesaler's license, which ~~shall~~ must be exhibited upon request to any agent of the commissioner.

(2) The holder of a baitfish wholesaler's license may take baitfish by use of a seine as defined in section 7001, subsection 33-A; a baitfish trap as defined in section 7001, subsection 1-B; a dipnet, a dropnet, a lift net or a bag net; or by hook and line.

(3) The holder of a baitfish wholesaler's license may use particles of food for the purpose of luring baitfish to a baitfish trap, a dipnet, a dropnet, a lift net or a bag net.

(4) If a person sells live baitfish from more than one wholesale facility, ~~he~~ that person must obtain a separate license for each place of business.

(5) The holder of a baitfish wholesaler's license may designate others to assist ~~him~~ the holder in selling live baitfish at ~~his~~ the holder's business facility.

(6) The holder of a baitfish wholesaler's license, or ~~his~~ the holder's designee, may transport live baitfish.

(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~~ shall 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.

(8) The holder of a baitfish wholesaler's license may not take eels.

(9) The holder of a baitfish wholesaler's license may not take or sell suckers (Genus Catostomus) greater than 10 inches in length between April 1st and September 30th of each year.

Sec. A-24. 12 MRSA §7313, sub-§5, as enacted by PL 1987, c. 742, §7, is amended to read:

5. Fee. The examination fee is ~~\$40~~ \$100. An applicant may retake the examination once without paying an additional fee. The fee is nonrefundable ~~and shall be credited toward the license fee of a successful applicant.~~

Sec. A-25. 12 MRSA §7313, sub-§6 is enacted to read:

6. Oral examination. If an oral examination is administered, it must be conducted by at least one trained public member of the Advisory Board for the Licensing of Whitewater Guides who has been designated by the commissioner and one trained member of the Bureau of Warden Service.

Sec. A-26. 12 MRSA §7320, sub-§3, as enacted by PL 1987, c. 742, §7, is amended to read:

3. Quorum. Five members of the board constitute a quorum, ~~except that oral exams shall be conducted by 3 members.~~

Sec. A-27. 12 MRSA §7376, as enacted by PL 1979, c. 420, §1, is amended to read:

§7376. Obtaining a suspended or revoked license or permit

A person is guilty of ~~purchase of~~ obtaining a suspended or revoked license or permit if ~~he purchases or attempts to purchase that person obtains or attempts to obtain any license or permit which that~~ he obtains or attempts to obtain any license or permit which that has been suspended or revoked by the commissioner under chapters 701 to 721.

Sec. A-28. 12 MRSA §7406, sub-§16, ¶C, as amended by PL 1987, c. 161, §1, is further amended to read:

C. Tramples or destroys any crop on another person's land; or

Sec. A-29. 12 MRSA §7406, sub-§16, ¶D, as enacted by PL 1987, c. 161, §2, is amended to read:

D. Damages or destroys a tree on another person's land by inserting into that tree any metallic or ceramic object to be used as, or as part of, a ladder or observation stand. ~~Any other type of tree ladder or tree observation stand shall also be prohibited unless; or~~

~~(1) The written consent of the landowner is obtained authorizing the erection of such ladder or stand; or~~

~~(2) The ladder or observation stand is removed by the beginning of the 10th day following the close of the hunting season for use during which the ladder or observation stand was erected.~~

Sec. A-30. 12 MRSA §7406, sub-§16, ¶E is enacted to read:

E. Except as provided in subsection 20, paragraph C, erects or uses either a portable or permanent tree ladder or stand attached to a tree on the land of another person, unless:

(1) That person has obtained verbal or written authorization to erect and use a tree ladder or stand from the landowner or the landowner's representative;

(2) The tree ladder or stand is plainly labeled with a 2-inch by 4-inch tag identifying the name and address of the person or persons authorized by the landowner to use the tree stand or ladder; and

(3) The tree ladder or stand is removed within 10 days after the close of the hunting season for which the ladder or stand was erected.

Sec. A-31. 12 MRSA §7406, sub-§20, ¶C is enacted to read:

C. The following is an exception to subsection 16, paragraph E:

(1) A portable tree ladder or stand that is located on land within the jurisdiction of the Maine Land Use Regulation Commission and attended by the person who owns the ladder or stand.

Sec. A-32. 12 MRSA §7451, sub-§3, ¶A, as amended by PL 1987, c. 696, §9, is further amended to read:

A. Bait may not be used to hunt black bear, unless:

(1) The bait is placed at least 50 yards from any travel way that is accessible by a conventional 2-wheel or 4-wheel drive vehicle;

(2) The stand, blind ~~and~~ or bait area ~~are tagged by~~ is plainly labeled with a 2-inch by 4-inch tag with the name and address of the baiter;

(3) The bait is placed more than 500 yards from any dump or campground;

(4) The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or leasee;

(5) The bait is placed not more than 30 days before the opening day of the season and not after October 31st;

(6) The bait areas will be cleaned up by November ~~10~~ 10th, as defined by the state litter laws; and

(7) The person hunting from any stand or blind of another person has permission of the owner of that stand or blind.

Sec. A-33. 12 MRSA §7753, sub-§3, as enacted by PL 1995, c. 415, §2, is amended to read:

3. Legislative authority. The Legislature, as sole authority, shall designate a species as state endangered or state threatened species. The list of state endangered or state threatened species is as follows:

Common Name	Scientific Name	Status
Least Tern	<i>Sterna albifrons</i>	Endangered
Golden Eagle	<i>Aquila chrysaetos</i>	Endangered
Piping Plover	<i>Charadrius melodus</i>	Endangered
Sedge Wren	<i>Cistothorus platenis</i>	Endangered
Grasshopper Sparrow	<i>Ammodramus savannarum</i>	Endangered

Box Turtle	Terrapene carolina	Endangered
Black Racer	Coluber constrictor	Endangered
Roseate Tern	Sterna dougallii	Threatened
Northern Bog Lemming	Synaptomys borealis	Threatened
Loggerhead Turtle	Caretta caretta	Threatened
Blanding's Turtle	Emydoidea blandingii	Threatened
Spotted Turtle	Clemmys guttata	Threatened
<u>Bald Eagle</u>	<u>Haliaeetus leucocephalus</u>	<u>Threatened</u>

Sec. A-34. 12 MRSA §7753, sub-§3-A is enacted to read:

3-A. Temporary authority. Notwithstanding any other provision of this subchapter, the commissioner may consider a species found in the State that is not listed in subsection 3 as a state endangered or state threatened species if that species is listed as an endangered or threatened species 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. This subsection is repealed 90 days after the adjournment of the First Regular Session of the 118th Legislature.

Sec. A-35. 12 MRSA §7950, as repealed and replaced by PL 1989, c. 913, Pt. B, §15, is amended to read:

§7950. Records of the Department of Inland Fisheries and Wildlife

A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating what the records of the Department of Inland Fisheries and Wildlife show on any given matter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon the testimony of a law enforcement officer that the certificate and records were obtained by that officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony.

1. Certificate prima facie evidence person not the holder of a license, permit, registration or certificate of number. A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating that the records of

the department do not show that a particular person on a stated date held a license, permit, registration or certificate of number issued under chapters 701 to 721; is admissible in evidence in all courts of this State and is prima facie evidence that the particular person named in the certificate did not hold a license, permit, registration or certificate of number as specified in the certificate on the date specified in the certificate.

2. Certificate prima facie evidence of license, permit, registration or certificate of number revocation. A certificate, signed by the commissioner or ~~deputy commissioner~~ the commissioner's designee, stating that the records of the department show that a particular person's license, permit, registration or certificate of number issued under chapters 701 to 721; was revoked or suspended on a particular stated date is admissible in evidence in all courts of this State and is prima facie evidence that the particular person's license, permit, registration or certificate of number as specified in the certificate, was revoked or suspended on the date stated.

Sec. A-36. 12 MRSA §9902, sub-§6, as enacted by PL 1995, c. 406, §12, is repealed.

Sec. A-37. 17 MRSA §2263, sub-§2, as amended by PL 1993, c. 144, §4, is further amended to read:

2. Litter. "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, offal, except waste parts or remains resulting from the normal field dressing of lawfully harvested wild game or the lawful use of waste parts or remains of wild game as bait, feathers, except feathers from live birds while being transported, abandoned ice-fishing shacks, old automobiles or parts of automobiles or similar refuse, or disposable packages or containers thrown or deposited as prohibited in this chapter, but not including the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

Sec. A-38. Policy for possession of animal parts. The Commissioner of Inland Fisheries and Wildlife shall ensure that the possession and disposition of wild animal parts by employees of the Department of Inland Fisheries and Wildlife are governed by department policies. That policy must require department employees to surrender to the department all animal parts having substantial market value, as determined by the commissioner.

Sec. A-39. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 5, section 12004-G, subsection 20 is effective July 1, 1996.

PART B

Sec. B-1. 5 MRSA §12004-I, sub-§23-B is enacted to read:

23-B.	<u>Advisory</u>	<u>\$50/Day</u>	<u>12 MRSA</u>
<u>Environment:</u>	<u>Board for</u>		<u>§7366-A</u>
<u>Natural</u>	<u>the Licens-</u>		
<u>Resources</u>	<u>ing of</u>		
	<u>Whitewater</u>		
	<u>Guides</u>		

Sec. B-2. 12 MRSA §7366, sub-§3, as enacted by PL 1985, c. 29, §3, is amended to read:

3. Examination. All initial applicants for a whitewater guide's license ~~shall be~~ are required to pass an examination developed and administered by the commissioner. The fee is \$50 for the first examination and \$10 for subsequent examinations. All examination fees are nonrefundable and must be applied toward the license fees of successful applicants.

Sec. B-3. 12 MRSA §7366, sub-§4, as amended by PL 1993, c. 419, §26, is further amended to read:

4. Fee. The annual fee for a whitewater guide's license is \$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996 ~~and every year thereafter.~~ Beginning in 1997, a whitewater guide license is a 3-year license. The fee for a 3-year license is \$87.

Sec. B-4. 12 MRSA §7366-A is enacted to read:

§7366-A. Whitewater guide advisory board

1. Members. The Advisory Board for the Licensing of Whitewater Guides, referred to in this section as the "board" and established by Title 5, section 12004-I, subsection 23-B, consists of the following 10 members:

A. The commissioner or an employee of the department who is the commissioner's designee;

B. One warden or retired warden of the department, appointed by the commissioner; and

C. Eight persons representing the public who are licensed whitewater guides, appointed by the Governor for terms of 3 years. In making appointments under this paragraph, the Governor shall ensure that those appointments establish and maintain a wide diversity of whitewater guide experience on the State's rapidly flowing rivers. The Governor may not appoint a person who holds a whitewater outfitter license. At least 5 persons appointed under this paragraph must have expertise in whitewater rafting on both the

Kennebec River and the West Branch of the Penobscot River, including the cribworks.

2. Compensation. Members who are not employed by the department are entitled to compensation as provided in Title 5, chapter 379.

3. Duties. The board has the following duties:

A. To provide advice regarding rules proposed by the commissioner;

B. At the request of the commissioner, to conduct an examination of applicants for the whitewater guide license as provided in section 7366, except that oral examinations are conducted by 2 members; and

C. To advise the commissioner on granting and revoking whitewater guide licenses.

4. Quorum. Five members of the board constitute a quorum.

Sec. B-5. 12 MRSA §7368, sub-§2-A, ¶B, as amended by PL 1993, c. 438, §21, is further amended to read:

B. Sundays: ~~800~~ 1,000 commercial passengers; and

Sec. B-6. 12 MRSA §7369, sub-§10, ¶A, as amended by PL 1995, c. 455, §21, is further amended to read:

A. Allocations are required for Saturdays on the Kennebec River for the period of ~~June 8th~~ July 1st to August 31st. Allocations are required for Saturdays on the Penobscot River for the period of June 8th to August 31st. The commissioner may adopt rules establishing allocations for Sundays ~~between June 8th~~ for the period of July 1st 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. B-7. 12 MRSA §7369, sub-§12, ¶A is enacted to read:

A. A commercial whitewater outfitter using a whitewater craft on any stretch of river for which a specific allocation is required, including days for which an allocation is not required, and carrying a person other than a commercial passenger or commercial whitewater guide, shall file a noncommercial passenger registration form with the department before launching the craft. The form must list the persons who are not commercial guides or commercial passengers, state that the persons listed are not commercial

guides or commercial passengers and be signed by each person listed.

Sec. B-8. 12 MRSA §7801, sub-§16, as amended by PL 1991, c. 28, is further amended to read:

16. Operating a watercraft without proper safety equipment. A person is guilty, except as provided in subsection 27, paragraph B, of operating a watercraft without proper safety equipment if ~~he~~ that person operates a watercraft and ~~he~~ that person:

A. Fails to comply with the same requirements pertaining to lights, life-saving devices, fire extinguishers and other safety equipment as required by federal laws and regulations on federal navigable waters, as promulgated under the United States Federal Boat Safety Act of 1971, Public Law 92-75, as amended; ~~or~~

B. Fails to comply with requirements pertaining to additional equipment not in conflict with federal navigation laws, which the commissioners may prescribe if there is a demonstrated need;

C. Fails to wear a Coast Guard approved Type I, Type II or Type III personal flotation device while canoeing or kayaking on the Saco River between Hiram Dam and the Atlantic Ocean between January 1st and June 1st; or

D. Fails to wear a Coast Guard approved Type I, Type II, Type III or Type V personal flotation device while operating a watercraft on:

(1) The Penobscot River, between the gorge and the head of Big Eddy; or

(2) The Kennebec River, between Harris Station and Turtle Island, at the foot of Black Brook Rapids.

Sec. B-9. Initial appointments to Advisory Board for the Licensing of Whitewater Guides. Notwithstanding the Maine Revised Statutes, Title 12, section 7366-A, subsection 1, of the initial appointments of the 8 members representing the public on the Advisory Board for the Licensing of Whitewater Guides, 3 must be appointed for one-year terms, 3 must be appointed for 2-year terms and 2 must be appointed for 3-year terms. After these initial terms have expired, all appointments must be for terms as specified in Title 12, section 7366-A, subsection 1.

PART C

Sec. C-1. 7 MRSA §2-A is enacted to read:

§2-A. Hunters for the Hungry Program; acceptance of donations

The department and those recipient agencies participating in the department's food assistance distribution programs may accept wild game meat from persons participating in the Hunters for the Hungry Program established under Title 12, chapter 709, subchapter III-A. The department may facilitate the acceptance of that meat by its recipient agencies through coordination with the Department of Inland Fisheries and Wildlife and may undertake educational and promotional efforts on behalf of the program.

Sec. C-2. 12 MRSA c. 709, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

HUNTERS FOR THE HUNGRY PROGRAM

§7481. Hunters for the Hungry Program; established

The Hunters for the Hungry Program, referred to in this subchapter as the "program," is established to allow the department and persons who are lawfully in the possession of wild game meat to donate that wild game meat for distribution to needy persons through the food assistance programs of the Department of Agriculture, Food and Rural Resources. The department shall develop and implement this program in cooperation with the Department of Agriculture, Food and Rural Resources. In developing the program, the department shall investigate, in cooperation with the Department of Agriculture, Food and Rural Resources, the costs and benefits of establishing a toll-free telephone line for facilitating the donation of meat.

§7482. Rules

The department may adopt rules to implement the program. If rules are determined necessary, the department shall develop those rules in cooperation with the Department of Agriculture, Food and Rural Resources. Rules adopted under this section are technical rules under the Maine Administrative Procedure Act. Rules adopted under this section may include, but are not limited to:

1. Donation procedures. Procedures for donating wild game meat;

2. Quality control. Provisions for a quality control program;

3. Distribution process. Procedures for distributing donated wild game meat through the food assistance programs administered by the Department of Agriculture, Food and Rural Resources;

4. Education and promotion. Methods for supporting private sporting groups throughout the State with program education and promotion efforts; and

5. Limits. Limiting the distribution of wild game meat to certain types of facilities.

§7483. Food donations; exemption from civil liability

A person who donates lawfully obtained wild game meat that is apparently fit for human consumption to the program and a charitable, nonprofit or other organization authorized by the department to receive and distribute meat donated under the program are immune from civil liability arising from injury or death due to the condition of the donated food, unless the injury or death is a direct result of the intentional misconduct of the donor or the organization.

Sec. C-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1996-97

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Office of the Commissioner

Personal Services	\$4,141
Appropriates funds for the per diem costs of the Advisory Board for the Licensing of Whitewater Guides and the Inland Fisheries and Wildlife Advisory Council.	

Savings Fund Program

All Other	25,697
Appropriates funds to be used only to avoid future license fee increases.	

DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

TOTAL	\$29,838
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 11, 1996, unless otherwise indicated.

CHAPTER 668

H.P. 1286 - L.D. 1766

An Act to Prohibit Stalking

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

Sec. 1. 4 MRSA §1057, as amended by PL 1991, c. 733, §3, is further amended to read:

§1057. Government Operations Surcharge Fund

1. Fund established. There is hereby established a fund to be known as the Government Operations Surcharge Fund. This fund must be maintained by the Treasurer of State for the ~~sole~~ purpose purposes of reimbursing counties for costs associated with operations of the jail system and, until January 1, 2001, for funding infrastructure improvements to the Maine Criminal Justice Information System described in Title 16, section 631 and for funding the operation of the Judicial Department's computer system.

2. Surcharge imposed. A surcharge of ~~40%~~ 12% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. Five-sixths of the surcharge collected must be earmarked for counties and disbursed pursuant to subsection 3 for the costs of jails. One-twelfth of the surcharge collected must be paid to the State Court Administrator for funding the operation of the Judicial Department's computer system and 1/12 of the surcharge must be paid to the Department of Public Safety for infrastructure improvements to the Maine Criminal Justice Information System pursuant to subsection 4 to provide instant access to all available and existing criminal records, including stalking or harassment convictions and protective orders. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection is repealed January 1, 2001.

2-A. Surcharge imposed. A surcharge of 10% must be added to every fine, forfeiture or penalty imposed by any court in this State, which, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. This subsection takes effect January 1, 2001.

3. Reimbursement to counties. Monthly, the Treasurer of State shall make payments from ~~this fund~~ the Government Operations Surcharge Fund to each

county in the same proportion as the total amount paid to that county from the total amount deposited into the fund during the fiscal year ending June 30, 1991 bears to the total amount deposited into the fund during the fiscal year ending June 30, 1991, except that a county may not receive an amount greater than the prior year's expenditures on its jail. The amount of total payments made to counties must equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund.

4. Payment for infrastructure improvements to the Maine Criminal Justice Information System and for operation of the Judicial Department's computer system. Monthly, the Treasurer of State shall make payments from the Government Operations Surcharge Fund to the State Court Administrator and to the Department of Public Safety. The amount of the total payments made to fund the Maine Criminal Justice Information System must equal 1/12 of the surcharges received by the Treasurer of State, and the amount of the total payments made to fund the operations of the Judicial Department's computer system must equal 1/12 of the surcharges received by the Treasurer of State. The balance remaining in the Government Operations Surcharge Fund at the end of each month must accrue to the General Fund. This subsection is repealed January 1, 2001.

Sec. 2. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 1995, c. 224, §1 and c. 356, §20, is repealed and the following enacted in its place:

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, terrorizing or stalking, 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 \$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 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, 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

Sec. 3. 17-A MRSA §210-A is enacted to read:

§210-A. Stalking

1. A person is guilty of stalking if:

A. The person intentionally or knowingly engages in a course of conduct directed at another specific person that would in fact cause a reasonable person:

- (1) To suffer intimidation or serious inconvenience, annoyance or alarm;
- (2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or
- (3) To fear death or to fear the death of a member of that person's immediate family; and

B. The person's course of conduct in fact causes the other specific person:

(1) To suffer intimidation or serious inconvenience, annoyance or alarm;

(2) To fear bodily injury or to fear bodily injury to a member of that person's immediate family; or

(3) To fear death or to fear the death of a member of that person's immediate family.

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

A. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct directed at or toward a person. For purposes of this section, "course of conduct" also includes, but is not limited to, gaining unauthorized access to personal, medical, financial or other identifying information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute.

B. "Immediate family" means a spouse, parent, child, sibling, stepchild, stepparent or any person who regularly resides in the household or who within the prior 6 months regularly resided in the household.

C. "Repeatedly" means on 2 or more occasions.

3. Stalking is a Class D crime for which the court shall impose a sentencing alternative involving a term of imprisonment of at least 60 days, of which 48 hours may not be suspended, and may order the actor to attend an abuser education program approved by the court, except that stalking is a Class C crime when the actor has 2 or more prior convictions for violations of this section, 2 or more convictions under Title 5, section 4659; Title 15, section 321; or Title 19, section 769 or 2 or more prior convictions for violations of any other 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. The court shall impose a sentencing alternative involving a term of imprisonment, in the case of a Class C crime, of at least 6 months, of which 14 days may not be suspended, and may order the actor to attend an abuser education program approved by the court. 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 10 years, although both prior convictions may have occurred on the same day. Stalking is not a Class C crime if the commission of the 2 prior offenses occurred within a 3-day period. The date of the conviction is determined to be the date that the sentence is imposed, even though an appeal was taken. The date of a commission of a prior offense is presumed to be that stated in the complaint, information, indictment or other formal charging instrument, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 4. 19 MRSA §769, sub-§3 is enacted to read:

3. Notice to law enforcement. To assist in the enforcement of protective orders issued by tribunals outside this State, the person who obtained the order may provide a copy to a Superior Court clerk or a District Court clerk who, in cooperation with the Department of Public Safety, shall file the order in the Maine Criminal Justice Information System described in Title 16, section 631.

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

JUDICIAL DEPARTMENT

Judicial - Computer Criminal Record System

All Other	\$173,721
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Provides for the allocation of funds for the operation of the Judicial Department's computer system.

JUDICIAL DEPARTMENT

TOTAL	173,721
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PUBLIC SAFETY, DEPARTMENT OF

State Police

All Other	173,721
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Provides for the allocation of funds to maintain the Maine Criminal Justice Information System.

DEPARTMENT OF PUBLIC SAFETY

TOTAL	173,721
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TOTAL ALLOCATIONS \$347,442

See title page for effective date.

CHAPTER 669

H.P. 1313 - L.D. 1797

An Act to Implement the Recommendations of the Task Force on Tax Increment Financing

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 §5252, sub-§8, as amended by PL 1991, c. 431, §§4 and 5, is further amended to read:

8. Project costs. "Project costs" means any expenditures made or estimated to be made or monetary obligations incurred or estimated to be incurred ~~by the municipality which that are listed included in a project plan development program~~ as costs of improvements, including public works, acquisition, construction or rehabilitation of land or improvements for sale or lease to, or use by, commercial or industrial users, within a development district plus any costs incidental to those improvements, reduced by any income, special assessments or other revenues, other than tax increments, received or reasonably expected to be received by the municipality in connection with the implementation of this plan.

A. The term "project costs" does not include the cost of buildings, or portions of buildings, used predominantly for the general conduct of government. These buildings include, but are not limited to, city halls and other headquarters of government where the governing body meets regularly, courthouses, jails, police stations and other State Government and local government office buildings.

B. The term "project costs" includes, but is not limited to:

(1) Capital costs, including, but not limited to:

(a) The actual costs of the construction of public works or ~~other~~ improvements, ~~new~~ buildings, structures and fixtures;

(b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;

(c) The acquisition of equipment; ~~and~~

(d) ~~The clearing and grading of land~~ Site preparation and finishing work; ~~and~~

(e) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expense, planning, engineering, architectural, testing, legal and accounting expenses.

(2) Financing costs, including, but not limited to, ~~all closing costs, issuance costs,~~ and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;

(3) Real property assembly costs, ~~meaning any deficit incurred resulting from the sale or lease as lessor by the municipality of real or personal property within a development district for consideration which is less than its cost to the municipality;~~

(4) Professional service costs, including, but not limited to, those costs incurred for architectural, planning, engineering and legal advice and services;

(5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a project plan development program;

(6) Relocation costs, including, but not limited to, those relocation payments made following condemnation;

(7) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the

creation of development districts and the implementation of project plans;

~~(8) Payments made, in the discretion of the local legislative body, which are found to be necessary or convenient to the creation of development districts or the implementation of project plans;~~

(9) That portion of the costs reasonably related to the construction or alteration or expansion of sewerage any facilities not located within the district that are required due to improvements or activities within the district including, but not limited to, sewage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines or amenities on streets or the rebuilding or expansion of which is required by the project plan for a development district, whether or not the construction, alteration, rebuilding or expansion is within the development district fire stations;

(10) Training costs, including, but not limited to, those costs associated with providing skills development and training for employees of businesses within the development district. These costs may not exceed 20% of the total project costs and must be designated as training funds within 3 years of the designation of the district in the development program; and

(11) ~~Improvements, meaning costs~~ Costs associated with developing new employment opportunities; promoting public events; advertising cultural, educational and commercial activities; providing public safety; establishing and maintaining administrative and management support; assisting in mitigating any adverse impact of a district upon the municipality and its constituents; funding economic development programs or environmental improvement programs developed by the municipality; and such other services as are necessary or appropriate to carry out the development program if the activities and programs generating such costs are provided for in the development program and bear a reasonable relationship to the improvements or activities within the district or the impacts on the district.

Sec. 2. 30-A MRSA §5253, sub-§1, ¶¶C to E, as repealed and replaced by PL 1991, c. 431, §6, are amended to read:

C. The aggregate value of equalized taxable property, as defined in Title 36, sections 208 and 305, of a tax increment financing district determined as of the April 1st preceding the date the designation of the district becomes effective, plus all existing tax increment financing districts determined as of the April 1st preceding the date the designation of each such district became effective, may not exceed 5% of the total value of equalized taxable property within the municipality as of the April 1st preceding the date the designation of the development district becomes effective. However, excluded from the calculation of this limit is any district involving project costs in excess of \$10,000,000, the geographic area of which consists entirely of contiguous property owned by a single taxpayer and the assessed value of which exceeds 10% of the municipality's total assessed value. For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed \$50,000,000, adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average, from January 1, 1996 to the date of calculation.

E. The designation of captured assessed value of property within a tax increment financing district is subject to the following limitations.

(1) The Commissioner of Economic and Community Development shall adopt rules necessary to allocate or apportion the designation of captured assessed value of property within tax increment financing districts in accordance with these limitations.

(2) The acquisition, construction and installment of all real and personal property improvements, buildings, structures, fixtures and equipment within the district contemplated by the development program must be completed within 5 years of the designation of the tax increment financing district by the Commissioner of Economic and Community Development.

Sec. 3. 30-A MRSA §5254, sub-§5 is enacted to read:

5. Considerations for approval. Prior to designating a development district within the boundaries of a municipality, or prior to establishing a

development program for a designated development district, the legislative body of a municipality must consider whether the proposed district or program will make a contribution to the economic growth or well-being of the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality. Interested parties must be given a reasonable opportunity to present testimony concerning the proposed district or program at the hearing provided for in section 5253, subsection 1 or 2. If an interested party claims at the public hearing that the proposed district or program will result in a substantial detriment to that party's existing business in the municipality and produces substantial evidence to that effect, the legislative body must consider such evidence. When considering that evidence, the legislative body also shall consider whether any adverse economic effect of the proposed district or plan on that interested party's existing business in the municipality is outweighed by the contribution made by the district or plan to the economic growth or well-being of the municipality or to the betterment of the health, welfare or safety of the inhabitants of the municipality.

Sec. 4. 30-A MRSA §5254-A, sub-§7, as amended by PL 1993, c. 741, §3, is further amended to read:

7. Repeal of state tax increment financing districts. The designation of new state tax increment financing districts ceases June 30, 1996, subject to review by the joint standing committees of the Legislature having jurisdiction over economic development and taxation matters. Designation of new state tax increment financing districts may only be resumed by act of the Legislature. This subsection does not apply to any proposed state tax increment financing district for which a completed application has been submitted to the Commissioner of Economic and Community Development on or before June 30, 1996.

Sec. 5. 36 MRSA c. 917 is enacted to read:

CHAPTER 917

EMPLOYMENT TAX INCREMENT FINANCING

§6751. Short title

This chapter may be known and cited as the "Maine Employment Tax Increment Financing Act."

§6752. Program established; declaration of public purpose

The Maine Employment Tax Increment Financing Program is established to encourage the creation of net new quality jobs in this State, improve

and broaden the tax base and improve the general economy of the State. The Legislature declares that the actions required to assist the implementation of development programs are a public purpose and that the execution and financing of these programs are a public purpose.

§6753. Definitions

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

1. Affiliated businesses. "Affiliated businesses" means 2 businesses exhibiting either of the following relationships:

A. One business owns 50% or more of the stock of the other business or owns a controlling interest in the other; or

B. Fifty percent or more of the stock or a controlling interest is directly or indirectly owned or acquired by a common owner or owners following approval by the commissioner, whether by acquisition of substantially all of the assets, 50% or more of the stock or through a merger, consolidation or reorganization.

2. Affiliated group. "Affiliated group" means a qualified business and its corresponding affiliated businesses.

3. Applicant. "Applicant" means a qualified business that has submitted an application to the commissioner for approval of an employment tax increment financing development program.

4. Base level of employment. "Base level of employment" means the greater of either the total employment of a business as of the December 31st immediately preceding the approval of the employment tax increment financing development program or its average employment during the base period.

5. Base period. "Base period" means the 3 calendar years prior to the year in which an applicant's employment tax increment financing development program is approved by the commissioner.

6. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development.

7. Employment tax increment. "Employment tax increment" means that level of employment, payroll and state income withholding taxes attributed to qualified employees employed by a qualified business above the base level for the qualified business, adjusted pursuant to section 6757 for shifts in employment by affiliated businesses.

8. Employment tax increment financing development program. "Employment tax increment financing development program" means a statement describing:

A. An applicant's employment growth and capital investment plans over the 5-year period beginning on the date an application is submitted to the commissioner; and

B. A description of how funds reimbursed under this Act are necessary to the achievement of those plans.

9. Gross employment tax increment. "Gross employment tax increment" means that level of employment, payroll and State income tax withholding taxes attributed to qualified employees employed by a qualified business that is greater than the base level for the qualified business.

10. Labor market unemployment rate. "Labor market unemployment rate" means the unemployment rate as published by the Department of Labor for the labor market or markets in which potential qualified employees are located and in which reimbursement is claimed under this chapter for the calendar year for which reimbursement is claimed.

11. Qualified business. "Qualified business" means any for-profit business in this State, other than a public utility as defined by Title 35-A, section 102, that adds 15 or more qualified employees above its base level of employment in this State within any 2-year period commencing on or after January 1, 1996 and that meets one of the following criteria:

A. The business is not engaged in retail operations;

B. The business is engaged in retail operations but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or

C. The business is engaged in retail operations and can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State.

For purposes of this subsection, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods.

12. Qualified employees. "Qualified employees" means new, full-time employees hired in this State by a qualified business and for whom a retirement program subject to the Employee

Retirement Income Security Act of 1974, 29 United States Code, Sections 101 to 1461, as amended, and group health insurance are provided, and whose income, calculated on a calendar year basis is greater than the average annual per capita income in the labor market area in which the qualified employee is employed and whose state income withholding taxes are subject to reimbursement to the qualified business under this chapter. "Qualified employees" must be residents of this State.

13. State unemployment rate. "State unemployment rate" means the unemployment rate as published by the Department of Labor for the State as a whole, for the calendar year for which reimbursement is claimed.

§6754. Reimbursement allowed

1. Generally. Subject to the provisions of subsection 2, a qualified business is entitled to reimbursement of state income withholding taxes withheld during the calendar year for which reimbursement is requested and attributed to qualified employees after July 1, 1996 in the following amounts.

A. For qualified employees employed by a qualified business in state labor market areas in which the labor market unemployment rate is at or below the state unemployment rate for the calendar year for which reimbursement is requested, the reimbursement is equal to 30% of withholding taxes withheld during that year and attributed to those qualified employees.

B. For qualified employees employed by a qualified business in state labor market areas in which the labor market unemployment rate is greater than the state unemployment rate for the calendar year for which reimbursement is requested, the reimbursement is equal to 50% of withholding taxes withheld during that year and attributed to those qualified employees.

2. Limitations. Reimbursement to a qualified business under this chapter is subject to the following limitations.

A. A business previously qualified and approved by the commissioner may not receive reimbursement under this chapter for any period of time in which it failed to maintain the minimum requirements for initial approval as a qualified business.

B. Reimbursement to a qualified business approved pursuant to this chapter expires 10 years after the date the employment tax increment financing development program was approved.

C. A business electing to take the jobs and investment tax credit under section 5215 may not claim reimbursement under this chapter until the full amount of allowable jobs and investment tax credit benefits have been claimed.

D. A business may not claim reimbursement under this chapter for income withholding taxes attributed to employees employed within any state tax increment financing district approved under Title 30-A, chapter 207.

E. Employee payroll withholding amounts are limited to the standard amount required to be withheld pursuant to chapter 827 and may not include any excess withholding.

F. The aggregate annual retained employment tax increment revenues for all employment tax increment financing programs may not exceed \$20,000,000, adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average, from January 1, 1996 to the date of calculation.

3. Multiple labor market areas. The commissioner may by rule establish procedures for equitably apportioning reimbursement to a qualified business employing qualified employees in multiple labor market areas in the State.

§6755. Procedures for application

A qualified business that applies to the commissioner for approval of its employment tax increment financing program shall submit, in a form acceptable to the commissioner, the following information:

1. Base level data. Employment, payroll and state withholding data necessary to calculate the base level;

2. Number of qualified employees. The number of qualified employees that the applicant has added or will add in the State that qualify the business for reimbursement under this chapter, including additional associated payroll and withholding data necessary to calculate the gross employment tax increment and establish the appropriate reimbursement percentage;

3. Certification. Certification that a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 and group health insurance have been made available to all of the applicant's qualified employees;

4. Employment locations. A listing of all of the applicant's employment locations within the State and the number of employees at each location; and

5. Affiliations and data. A listing of all affiliated business and affiliated groups, data regarding current employment, payroll and state income withholding taxes for each affiliated business in the State.

Upon receipt of the information required by this section, the commissioner shall review the information in a timely fashion. If the commissioner determines that the criteria provided in section 6756 are satisfied, the commissioner must issue a certificate of approval to the applicant.

§6756. Criteria for approval

Prior to issuing a certificate of approval for an employment tax increment financing program, the commissioner must find that:

1. Approval needed. The economic development described in the program will not go forward without the approval;

2. Contribution to State. The program will make a contribution to the economic well-being of the State; and

3. No substantial harm to existing businesses. The economic development described in the program will not result in a substantial detriment to existing businesses in the State. In order to make this determination, the commissioner shall consider, pursuant to Title 5, chapter 375, subchapter II, those factors the commissioner determines necessary to measure and evaluate the effect of the proposed program on existing businesses, including whether any adverse economic effect of the proposed program on existing businesses is outweighed by the contribution described in subsection 2.

The State Economist shall review applications for employment tax increment financing and provide an advisory opinion to assist the commissioner in making findings under this section.

§6757. Calculation of employment tax increment

The State Tax Assessor shall calculate the employment tax increment for a particular program by removing from the gross employment tax increment the revenues attributed to business activity shifted from affiliated businesses to the applicant. This adjustment is calculated by comparing the current year's income withholding tax revenues for the applicant business that is a member of an affiliated group with revenues for the group as a whole. If the growth in income withholding tax revenue for the

entire group exceeds the growth of income withholding tax revenue generated by the applicant, the gross employment tax increment does not have to be adjusted to remove business activity shifted from affiliated businesses. If the growth in income withholding tax revenue for the affiliated group is less than the growth in income withholding tax revenue for the applicant, the difference is presumed to have been shifted from affiliated businesses to the applicant and the gross employment tax increment for the applicant business is reduced by the difference. The State Tax Assessor shall adjust the calculation by subtracting from the gross employment tax increment a figure obtained by multiplying the previous year's total amount of income taxes withheld by a qualified business by the percentage change in withholding taxes for all business within the State as a whole; however, an adjustment may not be made if the percentage change is 0 or less.

§6758. Procedure for reimbursement

1. Reporting by qualified businesses. On or before April 15th of each year, each qualified business approved by the commissioner pursuant to this chapter shall report the number of employees, the state income taxes withheld for the immediately preceding calendar year and any further information the State Tax Assessor may reasonably require.

2. Determination by State Tax Assessor. On or before June 30th of each year, the State Tax Assessor shall determine the employment tax increment of each qualified business for the preceding calendar year. A qualified business may receive up to 50% of the employment tax increment generated by that business as determined by the State Tax Assessor, subject to the further limitations in section 6753, subsection 2. That amount is referred to as "retained employment tax increment revenues."

3. Deposit and payment of revenue. On or before June 30th of each year, the Commissioner of Administrative and Financial Services shall deposit an amount equal to the total retained employment tax increment revenues for the preceding calendar year for approved employment tax increment financing programs in the state employment tax increment contingent account established, maintained and administered by the Commissioner of Administrative and Financial Services. On or before July 31st of each year, the Commissioner of Administrative and Financial Services shall pay to each approved qualified business an amount equal to the retained employment tax increment revenues for the preceding calendar year.

§6759. Program administration

The commissioner shall administer this Act. The commissioner and the State Tax Assessor may adopt

rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees, including fees payable to the State Tax Assessor and the State Planning Office for obligations under this chapter. Any fees collected pursuant to this chapter must be deposited into a special revenue account administered by the State Tax Assessor and those fees may be used only to defray the actual costs of administering this Act.

§6760. Confidentiality

The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

1. Records used for designation or approval of program. Any record obtained or developed by the commissioner or the State Tax Assessor for designation or approval of an employment tax increment financing program. After receipt by the commissioner or the State Tax Assessor of the application or proposal, a record pertaining to the application or proposal is not considered confidential unless it meets the requirements of subsections 2 to 6:

2. Records requested confidential or causing detriment. Any record obtained or developed by the commissioner or the State Tax Assessor that:

A. A person, which may include a qualified business, to whom the record belongs or pertains has requested be designated confidential; or

B. The commissioner has determined contains information that gives the owner or a user of that information an opportunity to obtain business or competitive advantage over another person who does not have access to the information or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment to any person to whom the record belongs or pertains;

3. Private records. Any record, including any financial statement or tax return, obtained or developed by the commissioner or the State Tax Assessor, the disclosure of which would constitute an invasion of personal privacy, as determined by the governmental entity in possession of that record or information;

4. Employment tax increment program records. Any record, including any financial statement or tax return, obtained or developed by the commissioner or the State Tax Assessor in connection with any monitoring or servicing activity by the commissioner or the State Tax Assessor that pertains to an employment tax increment program;

5. Creditworthiness records. Any record, including any financial statement or tax return obtained or developed by the commissioner or the State Tax Assessor, containing an assessment by a person not employed by the State of the creditworthiness or financial condition of any person or project; and

6. Confidential financial statements. Any financial statement, if the person to whom the statement belongs or pertains has requested that the record be designated confidential.

§6761. Audit process

This chapter may not be construed to limit the authority of the State Tax Assessor to conduct an audit of a qualified business. When it is determined by the State Tax Assessor upon audit that a qualified business has received a distribution larger than that to which it is entitled under this chapter, the overpayment must be applied against subsequent distributions, unless it is determined that the overpayment is the result of fraud on the part of the qualified business, in which case the State Tax Assessor may disqualify the business from receiving any future distributions. When there is no subsequent distribution, the qualified business to which overpayments were made is liable for the amount of the overpayments and may be assessed pursuant to provisions of Part 1.

See title page for effective date.

CHAPTER 670

S.P. 731 - L.D. 1835

An Act to Provide for Assisted Living Services

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

PART A

Sec. A-1. 21-A MRSA §751, sub-§7, as amended by PL 1991, c. 466, §24, is further amended to read:

7. Residence in certain facilities. ~~Resident of~~ Residence in a licensed nursing home, as defined in Title 22, chapter 405, licensed boarding home, as defined in Title 22, chapter 1665, or certified congregate housing unit, as defined in Title 22, chapter ~~1457-A~~, 1665. Residents of those facilities may cast absentee ballots only when the clerk is present;

Sec. A-2. 21-A MRSA §753, sub-§3-A, as amended by PL 1991, c. 862, §6, is further amended to read:

3-A. Alternate method of balloting by residents of licensed nursing homes, licensed boarding homes or certified congregate housing units. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk must be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter ~~1457-A~~ 1665, for the purpose of absentee balloting by the residents of these homes or units. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

Sec. A-3. 22 MRSA c. 1457-A, as amended, is repealed.

Sec. A-4. 22 MRSA c. 1665 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 1665

ASSISTED LIVING PROGRAMS

Sec. A-5. 22 MRSA §7901-A, as amended by PL 1993, c. 661, §7, is repealed.

Sec. A-6. 22 MRSA §§7901-B and 7901-C are enacted to read:

§7901-B. Assisted living programs and services authorized

Assisted living programs and services are authorized under this chapter subject to the following standards and in the following settings.

1. Standards. Assisted living programs further the independence of the resident and respect the privacy and personal choices of the resident, including the choice to continue to reside at home as the resident ages, except when that choice would pose a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others. Assisted living services provided to residents must be consumer oriented and meet professional standards of quality.

2. Settings. Assisted living services programs may be provided in the following settings:

A. Congregate housing operating under this chapter. A congregate housing program providing assisted living services may operate

under the following licensing requirements for models of assisted living.

(1) A license is not required for providers operating congregate housing.

(2) A license is optional for providers operating congregate housing with personal care assistance.

(3) A license is required for providers operating congregate housing with personal care assistance and administration of medication.

(4) A license is required for providers operating congregate housing with nursing services including personal care assistance and administration of medication; and

B. Residential care facilities licensed under chapter 1663.

§7901-C. Definitions

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

1. Activities of daily living. "Activities of daily living" means tasks routinely performed by a person to maintain bodily functions, including bed mobility, transfers, dressing, eating, toileting, bathing and personal hygiene.

2. Assisted living services. "Assisted living services" means the provision by a single entity of housing and assistance with activities of daily living and instrumental activities of daily living. "Assisted living services" may include personal supervision, protection from environmental hazards, diet care, supervision and assistance in the administration of medications, diversional or motivational activities, assistance in activities of daily living or physical exercise and nursing services. Assisted living services must be provided by the provider of housing either directly by that provider or indirectly through contracts with persons, entities or agencies.

3. Congregate housing. "Congregate housing" means residential housing that consists of private dwelling units with an individual bathroom and an individual food preparation area, in addition to central dining facilities, and within which a congregate housing supportive services program serves occupants.

4. Congregate housing services program. "Congregate housing services program" means a comprehensive program of supportive services, including meals, housekeeping and chore assistance, case management and other services that are delivered

on the site of congregate housing and assist occupants to manage the activities of daily living and the instrumental activities of daily living. Congregate housing services may also include personal care assistance, with or without supervision, assistance in the administration of medication and nursing services subject to the licensing requirements of chapter 1663.

5. Instrumental activities of daily living. "Instrumental activities of daily living" include but are not limited to meal preparation, taking medication, using the telephone, handling finances, banking and shopping, light housekeeping, heavy housekeeping and getting to appointments.

6. Long-term care facility. "Long-term care facility" means any program of assisted living licensed pursuant to chapters 1663 and 1665 and any nursing facility or unit licensed pursuant to chapter 405.

7. Mobile nonambulatory. "Mobile nonambulatory," as applied to a resident of a residential care facility, means being able to transfer independently and able to evacuate a facility in less than 2 1/2 minutes with the assistance of another person throughout the evacuation procedure.

8. Nursing services. "Nursing services" means services provided by professional nurses licensed pursuant to Title 32, section 2102, subsection 2, including personal care assistance and administration of medication. For the purposes of this subtitle, "nursing services" includes coordination and oversight of resident care services provided by unlicensed health care assistive personnel in group residential settings consisting of private apartments.

9. Personal care assistance. "Personal care assistance" means services provided in group residential settings consisting of private apartments including assistance with the activities of daily living and the instrumental activities of daily living and supervision of residents self-administering medication. "Personal care assistance" does not include the administration of medication.

10. Personal care assistance with administration of medication. "Personal care assistance with administration of medication" means personal care assistance that includes the administration of medication to the resident by provider staff.

11. Private apartment. "Private apartment" means a private dwelling unit with an individual bathroom and an individual food preparation area.

12. Resident of residential care facility. "Resident of residential care facility" means any person 18 years of age or older who is not related by blood or marriage to the owner or person in charge of

the facility in which the resident lives and receives assisted living services.

13. Residential care. "Residential care" means care that is greater than that necessarily attendant upon mere eating and lodging services but is less than that attendant upon nursing home care or hospital care. "Residential care" may include personal supervision, protection from environmental hazards, diet care, care concerning grooming, hand and foot care, skin care, mouth and teeth care, shampooing, bathing, assistance in ambulation, supervision and assistance in the administration of medications, diversional or motivational activities, stimulation of or assistance in activities of daily living or physical exercise and limited nursing services.

14. Residential care facility. "Residential care facility" means a house or other place that, for consideration, is maintained wholly or partly for the purpose of providing residents with assisted living services as defined in subsection 2. A "residential care facility" includes, but is not limited to, facilities formerly defined and regulated as adult foster care homes and boarding homes under former section 7901-A and adult family care homes regulated under this chapter. "Residential care facility" does not include a licensed nursing home, a supported living arrangement certified by the Department of Mental Health and Mental Retardation or congregate housing.

15. Shared staffing. "Shared staffing" means the use of licensed and unlicensed personnel who are employed, directly or under a contract, by a long-term care facility in more than one level of care provided by a single entity on the same premises.

Sec. A-7. 22 MRSA §7902, as amended by PL 1993, c. 661, §8, is repealed.

Sec. A-8. 22 MRSA §7902-A is enacted to read:

§7902-A. Rules

The commissioner shall adopt rules for assisted living services programs pursuant to Title 5, chapter 375, subchapter II-A. Rules adopted pursuant to this section are major substantive rules.

1. Consultation. The rules must be developed in consultation with the long-term care ombudsman program, consumer representatives and providers of the type of assisted living services program to which the rules will apply.

2. Subject matter. The rules must include but are not limited to administration, quality of care and treatment, if applicable, level and qualifications of staff, rights of residents, contracts, administration of medication, available public and private sources of

payment, health and safety of residents and staff, community relations and licensing procedures.

3. Administration of medication rules. In adopting the rules for administration of medication, the commissioner shall consider, among other factors, the general health of the persons likely to receive medication, and the numbers of persons served and employed by the facility. The department may require unlicensed personnel to have successfully completed a program of training and instruction, approved by the department for the administration of medication, that is not limited to in-service training.

4. Residential care rules. The commissioner shall adopt rules for the various levels of residential care facilities. In addition to the subject matter of the rules listed in subsection 2, the rules must include criteria for placement of residents who are 17 years of age or older and under 18 years of age.

5. Congregate housing rules. The commissioner shall adopt rules for the various types of congregate housing services programs. In addition to the subject matter of rules listed in subsection 2, the rules must recognize and promote the efficiencies inherent in providing services in a congregate setting with respect to staffing and other responsibilities, while ensuring quality of care and safety. The rules must set requirements and standards for services rendered in congregate settings that recognize the differences between those settings and private homes served pursuant to chapter 419. The rules must permit staff in congregate housing services programs to be shared in accordance with section 1812-C, subsection 6-A and section 7914.

Sec. A-9. 22 MRSA §7903, as amended by PL 1993, c. 661, §9, is repealed and the following enacted in its place:

§7903. Fees for licensure

The department shall charge annual fees for licensure of residential care facilities and congregate housing services programs as follows:

1. Fees for residential care. Ten dollars per licensed bed for residential care facilities; and

2. Fees for congregate housing services programs. Fees to be licensed as congregate housing services programs are as follows:

A. To provide personal care assistance, \$50;

B. To provide personal care assistance with administration of medication, \$100; and

C. To provide nursing services, \$200.

Sec. A-10. 22 MRSA §7904-A, as amended by PL 1993, c. 661, §10, is amended by repealing the section headnote and enacting the following in its place:

§7904-A. Fire safety inspection for residential care facilities

Sec. A-11. 22 MRSA §7904-B is enacted to read:

§7904-B. Fire safety inspection for congregate housing services facilities

In accordance with this section, the department shall adopt rules pursuant to Title 5, chapter 375 for the inspection of licensed congregate housing facilities by the Office of the State Fire Marshal and the fees for that inspection. Rules regarding fees adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

1. Permits; inspection. Construction and renovation of congregate housing facilities requires a construction permit from the Office of the State Fire Marshal. Prior to licensure all congregate housing facilities must be inspected by the Office of the State Fire Marshal at the request of the department. All licensed congregate housing facilities must be inspected upon performing renovations and must be reinspected every 2 years.

2. Certificate of compliance. The Office of the State Fire Marshal shall issue a certificate of compliance to the department.

3. Requirements. All licensed congregate housing facilities must be inspected using Chapter 18, New Apartment Buildings, of the National Fire Protection Association Life Safety Code 101, 1994 edition and must be protected throughout by an approved, supervised, automatic sprinkler system.

Sec. A-12. 22 MRSA §§7914 and 7915 are enacted to read:

§7914. Shared staffing

The department shall permit staff in residential care facilities to be shared with other levels of assisted living on the same premises as long as there is a clear, documented audit trail and the staffing in the residential care facilities remains adequate to meet the needs of residents. Staffing to be shared may be based on the average number of hours used per week or month within the assisted living program.

§7915. Administration of congregate housing services programs funded by the State; eligible clients

The Department of Human Services, Bureau of Elder and Adult Services, with advice from the Maine State Housing Authority, the Rural Housing Services or any other housing agency financing the congregate housing facility, shall administer state-funded congregate housing services programs. Administration must include, but is not limited to:

1. Rules; operation of congregate housing services programs. Adopting rules governing the operation of congregate housing services programs. Rules adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter II-A;

2. Compliance with standards and guidelines. Reviewing the compliance of congregate housing services programs with standards and guidelines established for the program; and

3. Awarding of grants. Awarding of grants, when available and necessary, to subsidize the cost of congregate housing services programs for eligible clients.

For the purposes of this subsection, "eligible clients" means adults who have been determined through an approved assessment by the department to be functionally or cognitively impaired and in need of financial assistance to access congregate housing services.

PART B

Sec. B-1. 22 MRSA §1812-C, sub-§6-A is enacted to read:

6-A. Shared staffing. The department shall permit staff in nursing facilities to be shared with other levels of assisted living on the same premises as long as there is a clear, documented audit trail and the staffing in the nursing facilities remains adequate to meet the needs of residents. Staffing to be shared may be based on the average number of hours used per week or month within the assisted living program.

Sec. B-2. 22 MRSA §1812-G, sub-§3, as enacted by PL 1991, c. 421, §1, is amended to read:

3. Eligibility requirements for listing. The State Board of Nursing shall adopt rules pursuant to the Maine Administrative Procedure Act defining eligibility requirements for listing on the Maine Registry of Certified Nursing Assistants, including rules regarding temporary listing of nursing assistants who have received training in another jurisdiction. ~~The board shall submit a report of the adopted rules to the joint standing committee of the Legislature having jurisdiction over business legislation matters by January 15, 1992.~~ The rules must permit nursing assistants to work under the supervision of a registered

professional nurse in a facility providing assisted living services as defined in chapter 1665 and must recognize work in those facilities for the purpose of qualifying for and continuing listing on the registry. Rules adopted regarding the work of nursing assistants in facilities providing assisted living services are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

Sec. B-3. 22 MRSA §5107-A, first ¶, as amended by PL 1993, c. 284, §1, is further amended to read:

In accordance with the program established pursuant to section 5106, subsection 11-C, the ombudsman may enter onto the premises of any boarding residential care facility, as defined in section 7901-C, licensed according to section 7801, any assisted living facility licensed pursuant to chapter 1663 or 1665 and any nursing home facility licensed according to section 1817 to investigate complaints concerning those facilities or to perform any other functions authorized by this section or other applicable law or rules. The ombudsman shall investigate complaints received on behalf of individuals receiving long-term care services provided by home-based care programs, the Medicaid waiver program, licensed home health agencies, assisted living services providers, certified homemaker agencies and licensed adult day care agencies. To carry out this function, any staff member or volunteer authorized by the ombudsman may enter onto the premises of any adult foster residential care facility, boarding-care assisted living facility or nursing home facility during the course of an investigation, speak privately with any individual in the facility or home who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. When a resident is not competent to grant consent and has no legal representative, the ombudsman may inspect the resident's records and may make copies without the written consent of a duly appointed legal representative. The ombudsman may authorize as many individuals as necessary, in addition to staff, to carry out this function except that these individuals may not make copies of confidential client information. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, a person may not serve as an ombudsman without training as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of the ombudsman. The ombudsman shall renew the authorization and issue identification annually. The findings of the

ombudsman must be available to the public upon request.

Sec. B-4. 22 MRSA §5107-A, last ¶, as enacted by PL 1991, c. 622, Pt. QQ, §2, is amended to read:

Any person, official or institution that in good faith participates in the registering of a complaint pursuant to this section or in good faith investigates that complaint or provides access to those persons carrying out the investigation about an act or practice in any boarding residential care facility licensed according to section 5154 or 7801, any assisted living facility or program or any nursing home facility licensed according to section 1817 or that participates in a judicial proceeding resulting from that complaint is immune from any civil or criminal liability that otherwise might result from these actions. For the purpose of any civil or criminal proceedings, there is a rebuttable presumption that any person acting pursuant to this section did so in good faith.

Sec. B-5. 22 MRSA §7801, sub-§1, ¶A-1 is enacted to read:

A-1. In accordance with subparagraphs (1) and (2), a congregate housing services program either directly or by contract providing to its residents any of the following services: personal care assistance, the administration of medication or nursing services.

(1) A congregate housing services program may directly provide to its residents meals, housekeeping and chore assistance, case management and personal care assistance delivered on the site of congregate housing without obtaining a separate license to do so.

(2) A congregate housing services program licensee may hold at any one time only one license under section 7901-B, subsection 2. A qualified congregate housing services program may obtain a license for a different category under section 7901-B, subsection 2, upon application and surrender of the previous license;

Sec. B-6. 22 MRSA §7802, sub-§1, ¶E, as enacted by PL 1993, c. 661, §5, is amended to read:

E. A 2-year full license may be issued by the department when an individual or agency is licensed as a residential care facility for one or 2 adults or a congregate housing services program as long as it has relatively deficiency-free surveys with is in substantial compliance with licensing rules and has no history of health or safety violations.

Sec. B-7. 22 MRSA §7922, sub-§1, as amended by PL 1993, c. 661, §20, is further amended to read:

1. Long-term care facility. "Long-term care facility" means any residential care facility with more than 5 residents program of assisted living licensed pursuant to chapters 1663 and 1665, and any skilled nursing or intermediate care facility or unit licensed pursuant to chapter 405.

PART C

Sec. C-1. 22 MRSA §2053, sub-§2-C, as enacted by PL 1995, c. 362, §1, is repealed.

Sec. C-2. 22 MRSA §2053, sub-§3-A, as amended by PL 1995, c. 452, §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; an assisted living facility that is, or will be upon completion, licensed under chapter 1665; a hospital; a community mental health facility; or a community health center.

Sec. C-3. 22 MRSA §2053, sub-§5, as amended by PL 1995, c. 362, §2, is further amended to read:

5. Participating health care facility. "Participating health care facility" means a health care or ~~congregate housing~~ licensed assisted living 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. C-4. 32 MRSA §2102, sub-§2, ¶F, as amended by PL 1993, c. 600, Pt. A, §110, is further amended to read:

F. Administration of medications and treatment as prescribed by a legally authorized individual. Nothing in this section may be construed as limiting the administration of medication by licensed or unlicensed personnel as provided in other laws; ~~and~~

Sec. C-5. 32 MRSA §2102, sub-§2, ¶G, as enacted by PL 1985, c. 724, §2, is amended to read:

G. Teaching activities of daily living to care providers designated by the patient and family; and

Sec. C-6. 32 MRSA §2102, sub-§2, ¶H is enacted to read:

H. Coordination and oversight of patient care services provided by unlicensed health care assistive personnel. Nothing in this paragraph prohibits a nurse in the exercise of professional judgment from refusing to provide such coordination and oversight in any care setting. The board shall adopt, pursuant to Title 5, chapter 375, subchapter II-A, major substantive rules for the application of this paragraph to nursing practice.

PART D

Sec. D-1. Report of the Commissioner of Human Services. The Commissioner of Human Services shall review the laws and rules on residential care facilities, assisted living programs and long-term care in consultation with providers of residential care, assisted living services and long-term care and consumer representatives. The review must include consideration of the requirements and restrictions of asset and income treatment and transfer and spousal support. In the review, the commissioner shall consider the report due to the joint standing committee having jurisdiction over human resource matters by October 1, 1996 from the commissioner, the Commissioner of Mental Health and Mental Retardation and the State Board of Nursing. By January 1, 1997 the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over human resource matters with the recommendations of the Department of Human Services and any legislation necessary to implement those recommendations.

Sec. D-2. Report of the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the State Board of Nursing. By October 1, 1996 the Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation and the State Board of Nursing shall report to the joint standing committee of the Legislature having jurisdiction over human resource matters on recommendations for standardization of educational courses and utilization of unlicensed assistive personnel who administer medications in long-term care facilities as defined in the Maine Revised Statutes, Title 22, section 7901-C.

Sec. D-3. Residential care case mix reimbursement. By January 1, 1997, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over human resources matters on the case mix reimbursement system and the plans of the department to institute case mix reimbursement in residential care facilities. The Department of Human

Services may not institute case mix reimbursement for residential care facilities prior to July 1, 1997.

Sec. D-4. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1996-97

**HUMAN SERVICES,
DEPARTMENT OF**

**Bureau of Elder and Adult
Services**

All Other \$3,250

Allocates funds to support the costs associated with licensing assisted living services programs.

Sec. D-5. Effective dates. Sections 1, 2 and 3 of this Part take effect July 15, 1996. Those sections of this Act that repeal the Maine Revised Statutes, Title 22, section 5155 and enact section 7904-B take effect October 1, 1996. The remainder of this Act takes effect January 1, 1997.

Effective January 1, 1997, unless otherwise indicated.

CHAPTER 671

H.P. 1351 - L.D. 1852

**An Act to Establish the Board of
Complementary Health Care
Providers and to Regulate the
Practice of Naturopathic Medicine**

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

Sec. 1. 3 MRSA §959, sub-§1, ¶C, as enacted by PL 1995, c. 488, §2, is amended by repealing subparagraph (46).

Sec. 2. 3 MRSA §959, sub-§1, ¶C, as enacted by PL 1995, c. 488, §2, is amended by amending subparagraphs (47) and (48) to read:

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

(48) Board of Licensing of Dietetic Practice in 2005-; and

Sec. 3. 3 MRSA §959, sub-§1, ¶C, as enacted by PL 1995, c. 488, §2, is amended by enacting a new subparagraph (49) to read:

(49) Board of Complementary Health Care Providers in 2007.

Sec. 4. 5 MRSA §12004-A, sub-§3, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 5. 5 MRSA §12004-A, sub-§8-A is enacted to read:

<u>8-A. Board of</u>	<u>Expenses</u>	<u>32 MRSA</u>
<u>Complementary</u>	<u>Only</u>	<u>§12502</u>
<u>Health Care</u>		
<u>Providers</u>		

Sec. 6. 10 MRSA §8001, sub-§38, ¶B, as enacted by PL 1995, c. 397, §11, is repealed.

Sec. 7. 10 MRSA §8001, sub-§38, ¶H-1 is enacted to read:

H-1. Board of Complementary Health Care Providers;

Sec. 8. 24 MRSA §2320-B, as enacted by PL 1991, c. 647, §1, is amended to read:

§2320-B. Acupuncture services

All individual and group nonprofit medical services plan contracts and all nonprofit health care plan contracts providing coverage for acupuncture must provide coverage for those services when performed by an acupuncturist licensed pursuant to Title 32, chapter ~~443-A~~ 113-B, subchapter II, under the same conditions that apply to the services of a licensed physician.

Sec. 9. 24-A MRSA §2745-B, as enacted by PL 1991, c. 647, §2, is amended to read:

§2745-B. Acupuncture services

All individual insurance policies providing coverage for acupuncture must provide coverage for those services when performed by an acupuncturist licensed pursuant to Title 32, chapter ~~443-A~~ 113-B, subchapter II, under the same conditions that apply to the services of a licensed physician.

Sec. 10. 24-A MRSA §2837-B, as enacted by PL 1991, c. 647, §3, is amended to read:

§2837-B. Acupuncture services

All group insurance policies providing coverage for acupuncture must provide coverage for those services when performed by an acupuncturist licensed pursuant to Title 32, chapter ~~443-A~~ 113-B, subchapter

II, under the same conditions that apply to the services of a licensed physician.

Sec. 11. 32 MRSA §3270, first ¶, as amended by PL 1993, c. 600, Pt. A, §204, is further amended to read:

Unless licensed by the board, an individual may not practice medicine or surgery or a branch of medicine or surgery or claim to be legally licensed to practice medicine or surgery or a branch of medicine or surgery within the State by diagnosing, relieving in any degree or curing, or professing or attempting to diagnose, relieve or cure a human disease, ailment, defect or complaint, whether physical or mental, or of physical and mental origin, by attendance or by advice, or by prescribing or furnishing a drug, medicine, appliance, manipulation, method or a therapeutic agent whatsoever or in any other manner unless otherwise provided by statutes of this State. An individual licensed under chapter 36 may prefix the title "Doctor" or the letters "Dr." to that individual's name, as provided in section 2581, or a chiropractor licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Chiropractor," or a dentist duly licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name or a naturopathic doctor licensed by this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Naturopathy" or the words "Naturopathic Medicine" or an optometrist duly licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Optometrist" or a podiatrist licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to that individual's name when accompanied by the word "Podiatrist" or "Chiropodist."

Sec. 12. 32 MRSA c. 113-A, as amended, is repealed.

Sec. 13. 32 MRSA c. 113-B is enacted to read:

CHAPTER 113-B
COMPLEMENTARY HEALTH CARE
PROVIDERS
SUBCHAPTER I
BOARD OF COMPLEMENTARY HEALTH
CARE PROVIDERS

§12501. Definitions

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

1. Acupuncture. "Acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpitation of specific points on the body and with or without the application of electric current or heat to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.

2. Acupuncture intern. "Acupuncture intern" means an acupuncture student enrolled in an acupuncture internship program approved by the board that involves practical training, including needle insertion on human subjects.

3. Approved naturopathic medical college. "Approved naturopathic medical college" means a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy approved by the board that:

A. Is accredited by an accrediting agency recognized by the Federal Government; or

B. Is a candidate for accreditation with such an agency.

4. Board. "Board" means the Board of Complementary Health Care Providers.

5. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

6. Homeopathic preparation. "Homeopathic preparation" means medicine prepared according to the "Homeopathic Pharmacopoeia of the United States Revised Service" (Nov. 1995).

7. Natural antibiotics. "Natural antibiotics" means antimicrobial, antifungal and antiprotozoal agents that are naturally occurring substances or are manufactured substances that are substantially identical to those naturally occurring substances.

8. Naturopathic acupuncture. "Naturopathic acupuncture" means the insertion of acupuncture needles into specific points on the skin to treat human disease and impairment and to relieve pain. The practice of naturopathic acupuncture is only within the scope of practice of naturopathic doctors certified pursuant to section 12525.

9. Naturopathic doctor. "Naturopathic doctor" means a person authorized and licensed to practice naturopathic medicine under this chapter.

10. Naturopathic manipulative therapy. "Naturopathic manipulative therapy" means the manually administered or mechanical treatment of body structures or tissues in accordance with naturopathic principles for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.

11. Naturopathic medicine. "Naturopathic medicine" means a system of health care for the prevention, diagnosis and treatment of human health conditions, injuries and diseases that uses education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes.

12. Naturopathic physical medicine. "Naturopathic physical medicine" means the therapeutic use of physical agents of air, water, heat, cold, sound, light and electromagnetic nonionizing radiation and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative therapy, therapeutic exercise and acupuncture if the provider is certified pursuant to section 12525, subsection 3.

13. Office procedures. "Office procedures" means methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues. The use of antiseptics and local anesthetics in connection with these methods is permitted. The use of general, regional or spinal anesthetics, major surgery, surgery of the body cavities or specialized surgeries such as plastic surgery, surgery involving the eye or surgery when tendons are involved is not permitted.

14. Person. "Person" means any individual, firm, partnership, corporation or other association or organization.

15. Topical medicine. "Topical medicine" means topical analgesics, anesthetics, antiseptics, scabicides, antifungals and antibacterials.

§12502. Board of Complementary Health Care Providers established

1. Membership. The Board of Complementary Health Care Providers, as established in Title 5, section 12004-A, subsection 8-A, shall regulate the professions of acupuncture and naturopathic medicine according to the provisions of this chapter. The board consists of 7 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 of these appointments. The commissioner shall call the first meeting of the board on a date no later than 30 days following notification of appointments by the Governor. All members of the board must be residents of this State. Two members of the board must be acupuncturists licensed in this State. Two members of the board must be practitioners of naturopathic medicine who are eligible for licensure under, or are licensed pursuant to, the requirements of subchapter III. One member must be a member of the public who is not a practitioner of any healing art or has no family connection with such a practitioner. One member must be an allopathic or osteopathic physician who is licensed in this State. One member must be a pharmacist who is licensed in this State.

2. Terms. Appointments are for 3-year terms. Appointments of members must comply with section 60. The Governor may remove any member for cause.

3. Qualifications. Members of the board must be trustworthy and competent to fulfill the responsibilities imposed by this chapter. Except for initial appointments made under subsection 1, each board member, other than the public member, must have been engaged in the active practice of the member's profession in the State for a minimum of 3 years prior to appointment.

4. Vacancy. Any vacancy in the board must be filled by appointment of a person of the same category as the board member being replaced to hold office for the unexpired term.

5. Quorum. Four members of the board constitute a quorum for the transaction of business.

6. Organization and meetings. The board annually shall elect a chair and a vice-chair from its membership. The board shall meet at least twice a year to conduct its business and elect its officers. 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 a majority of the board members. All meetings of the board must be open to the public, except that the board may hold closed sessions to prepare, administer or grade examinations or to prepare or provide a response upon request of an applicant for the review of an examination. The board may form subcommittees to aid in the administration of this chapter.

7. Reporting. No later than August 1st of each year, the board shall submit to the commissioner an annual report of its operations and financial position for the preceding fiscal year ending June 30th.

together with such comments and recommendations as the board considers essential.

§12503. Powers and duties of the board

The board has the following powers and duties in addition to all other powers and duties set forth in this chapter.

1. Duties. The board shall:

A. Make and adopt rules necessary to administer this chapter;

B. Set standards of practice for acupuncturists and naturopathic doctors;

C. Determine fees for application for licensure, for initial licensure and for renewal within fee caps established by sections 12514, 12516 and 12526;

D. Ensure that acupuncturists and naturopathic doctors serving the public meet minimum standards of proficiency and competency to protect the health, safety and welfare of the public;

E. Administer and enforce the provisions of this chapter and any rules adopted by the board under that authority granted in this chapter;

F. Maintain a record of its acts and proceedings including the issuance, refusal, renewal, suspension and revocation of licenses;

G. Maintain a roster of all acupuncturists and naturopathic doctors licensed under this chapter that indicates:

- (1)** The name of the licensee;
- (2)** The licensee's current professional office address;
- (3)** The date of issuance and the number of the licensee's license; and
- (4)** Whether the licensee is in good standing with the board including:
 - (a)** Any specialty certification required by the board;
 - (b)** Any restrictions or limitations to an individual's license;
 - (c)** A record of any revocations or suspensions; and
 - (d)** Any information that the board directs must be included in a member's record;

H. Keep all applications for licensure as a permanent record;

I. Maintain a permanent record of the results of all the examinations administered by the board;

J. Keep the records of the board open to public inspection at all reasonable times; and

K. Adopt and use a seal, the imprint of which, together with the signatures of the chair or vice-chair of the board, evidences its official acts.

2. Complaints. The board shall investigate, or cause to be investigated, all complaints made to it and all cases of noncompliance with this chapter.

3. Hearings. The board may conduct hearings to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or to fulfill its responsibilities under this chapter as the board otherwise determines necessary.

The board may not refuse to renew a license for any reason other than failure to pay the required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing upon the written request of any person who is denied a license without hearing for any reason other than failure to pay a required fee. The written request for a hearing must be received by the board within 30 days of the applicant's receipt of written notice of the denial of the application. The written notice of denial must set forth the reasons for the denial and the applicant's right to request a hearing. The board must conduct hearings in conformity with the Maine Administrative Procedure Act to the extent applicable.

4. Subpoena power; administration of oaths; power to compel production of documents. The board may subpoena witnesses, administer oaths in any hearing or disciplinary proceedings and compel, by subpoena duces tecum, the production of papers and records.

5. Witness fees. A witness summoned before the board must be paid the same fee as a witness summoned to appear before the Superior Court and that summons has the same effect as though issued for appearance before the Superior Court.

6. Suspension and revocation. The board may suspend or revoke a 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 license on any of the following grounds:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with

services rendered as an acupuncturist or naturopathic doctor;

B. A legal finding of mental incompetence;

C. Aiding or abetting a person, not duly licensed under this chapter, in claiming to be an acupuncturist or naturopathic doctor;

D. Any gross negligence, incompetence or misconduct in the performance of acupuncture or naturopathic medicine;

E. Subject to the limitations of Title 5, chapter 341, conviction of a Class A, Class B or Class C crime or of a crime that, if committed in this State, would be punishable by one year or more of imprisonment; or

F. Any other good cause, relevant to qualifications to practice acupuncture or naturopathic medicine.

§12504. Unauthorized employment

A person in the course of business may not employ an acupuncturist or naturopathic doctor who does not have a license unless that person is a student or intern within the meaning of this chapter.

§12505. Violation

A person who violates section 12504, 12511 or 12521 commits a Class E crime. The State may bring an action in Superior Court to enjoin any 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.

§12506. Rulemaking

Rules adopted pursuant to section 12522, subsection 4; and section 12526, subsection 3 are major substantive rules as defined by Title 5, chapter 375, subchapter II-A. All other rules adopted pursuant to this chapter are routine technical rules.

SUBCHAPTER II

ACUPUNCTURE LICENSING REQUIREMENTS AND SCOPE OF PRACTICE

§12511. Licensure

1. Licensure required. A person may not practice acupuncture or profess to be practicing as an acupuncturist in this State unless that person holds a current and valid license from the board, except that a student of acupuncture who has completed at least one year of full-time study in a board-approved acupuncture school may practice acupuncture in a

board-approved internship program. The student must be supervised by an instructor who is a licensed acupuncturist in this State and be identified as an acupuncture intern when in a clinical setting.

2. Exception. This chapter does not apply to any person who is licensed to practice any healing art or science and who is practicing acupuncture in the course of that practice and within the scope of that license.

§12512. Eligibility requirements for acupuncturists

The eligibility of an applicant for a license to practice acupuncture must be determined in accordance with the following.

1. Eligibility. To be eligible to apply for a license to practice acupuncture, an applicant must:

A. Be least 21 years of age; and

B. Have met requirements regarding education and experience as established by the board. These requirements must include the following:

(1) A baccalaureate degree from an accredited institution of higher learning, a license from the State to practice as a registered professional nurse or successful completion of the training program and any competency examination required by the Board of Licensure in Medicine to be qualified as a physician's assistant;

(2) A minimum of 1,000 hours of classroom instruction in acupuncture and related subjects at an institution approved by the board;

(3) A minimum of 300 hours of clinical experience in the field of acupuncture; and

(4) Certification by the National Commission for the Certification of Acupuncturists or passage of a written examination administered by the board.

2. License from another state. An applicant who holds a current valid license to practice acupuncture from another state with requirements for licensure at least equal to the requirements under this section must be issued a license by the board.

§12513. Licensing

1. Licensed acupuncturist. The board shall issue a license to practice acupuncture to an applicant who has satisfactorily met the following minimal requirements:

A. The eligibility requirements set forth in section 12512; and

B. Any other reasonable criteria the board may prescribe by rule.

§12514. Fees

1. Application. Application for licensing as an acupuncturist must be on forms prescribed and furnished by the board. The application fee is set by the board by rule, is nonrefundable and must be an amount that is reasonable and necessary for its purpose.

2. Licensure. The initial license fee is established by the board and may not exceed \$200 annually.

§12515. Reapplication

Any applicant who is denied a license as an acupuncturist may apply again for licensing after a period of not less than 6 months from the date of the last denial.

§12516. Application for renewal

1. Requirements. Prior to the expiration of a license, a licensee may make an application for renewal upon payment of an annual renewal fee, which may not exceed the initial licensure fee, and upon satisfactory demonstration of completion of 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.

2. Late renewal. An application for renewal may be made no earlier than 30 days prior to the date of expiration. An application made no more than 90 days past the date of expiration of a license must include a \$10 late fee in addition to the renewal fee. An application received more than 90 days past the expiration date is subject to all requirements covering new applicants under this chapter.

SUBCHAPTER III

NATUROPATHIC MEDICINE LICENSING REQUIREMENTS AND SCOPE OF PRACTICE

§12521. License required; licensee title

1. License required. A person may not practice naturopathic medicine or profess to be a naturopathic doctor in this State unless that person holds a current, valid license from the board to practice naturopathic medicine.

2. Title. A licensee must use the title "naturopathic doctor." Naturopathic doctors have the exclusive right to the use of the terms "naturopathic doctor," "naturopathic," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medicine," "naturopathic health care," "naturopathy" and the recognized abbreviation "N.D." Use of the title "physician" by the licensee is prohibited.

§12522. Scope of practice

1. Medicines and therapies. A naturopathic doctor may use and order for preventative and therapeutic purposes the following natural medicines and therapies: food, food extracts, vitamins, minerals, enzymes, digestive aids, whole gland thyroid and other natural hormones, plant substances, all homeopathic preparations, immunizations, counseling, hypnotherapy, biofeedback, dietary therapy, naturopathic manipulative therapy, naturopathic physical medicine, therapeutic devices, barrier devices for contraception and office procedures. Naturopathic doctors may also prescribe medications, including natural antibiotics and topical medicines, within the limitations set forth in subsection 4. This subsection may not be construed to prevent an individual other than a naturopathic doctor from using, ordering or recommending any of the above listed items as long as the individual is not prohibited from doing so by any other federal or state statute or regulation.

2. Diagnostic procedures. A naturopathic doctor may use physical examinations for diagnostic purposes including phlebotomy, clinical laboratory tests, speculum examinations and physiological function tests, excluding all endoscopies and physiological function tests requiring infusion, injection, inhalation or ingestion of medications to perform tests. A naturopathic doctor may order ultrasound, x-ray and electrocardiogram tests but must refer to an appropriate licensed health care professional for conducting and interpreting the tests.

3. Other devices and procedures. A naturopathic doctor may prescribe therapeutic devices or use noninvasive diagnostic procedures commonly used by allopathic or osteopathic physicians in general practice.

4. Prescriptive authority. Naturopathic doctors have a limited scope of prescriptive authority.

A. A naturopathic doctor may prescribe nonprescription medications without limitation.

B. A naturopathic doctor may only prescribe noncontrolled legend drugs from the following categories: homeopathic remedies, vitamins and minerals, hormones, local anesthesia and immunizations that are designated by rule by a subcommittee of the board consisting of the

naturopathic members, the pharmacist member and the allopathic or osteopathic physician member, as consistent with a naturopathic doctor's education and training. A naturopathic doctor may not prescribe psychotropic medications.

C. Prior to independently prescribing noncontrolled legend drugs, a naturopathic doctor shall establish and complete a 12-month collaborative relationship with a licensed allopathic or osteopathic physician to review the naturopathic doctor's prescribing practices. The board shall further define the terms of the collaborative relationship by rule.

5. Prohibition. A naturopathic doctor may not:

A. Prescribe, dispense or administer any substance or device identified in Schedule I, II, III, IV or V as described in the federal Controlled Substance Act, 21 United States Code, Sections 801 to 971 (1988), or any controlled substances or devices;

B. Perform surgical procedures except those office procedures authorized by this chapter;

C. Practice emergency medicine except when a good Samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries; or

D. Practice or claim to practice medicine and surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy or any other system or method of treatment not authorized in this chapter.

§12523. Application

This chapter is not intended to prohibit or restrict:

1. Practice within authorized scope of practice. The practice of a profession by individuals who are licensed, certified or registered under other laws of this State and are performing services within the authorized scope of practice;

2. Individual performing duties prescribed by federal laws. The practice of naturopathic medicine by an individual employed by the Federal Government while the individual is engaged in the performance of duties prescribed by the laws and regulations of the United States;

3. Duly licensed elsewhere. The practice by a naturopathic doctor duly licensed in another state, territory or the District of Columbia when that naturopathic doctor is incidentally called into this State for consultation with a licensed doctor; or

4. Students. The practice of naturopathic medicine by students enrolled in an approved naturopathic medical college. Services must be performed pursuant to a course of instruction or assignments from an instructor and under the supervision of the instructor. The instructor must be a naturopathic doctor licensed pursuant to this chapter.

§12524. Public health authority and responsibility

A naturopathic doctor is a licensed doctor and has the same authority and responsibility as other licensed doctors regarding public health laws, reportable disease and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations and local boards of health, except that this authority is limited to activity consistent with the scope of practice authorized by this chapter.

§12525. Qualification for licensure

1. Qualification for licensure. To be eligible for a license to practice naturopathic medicine, the applicant must:

A. Be a graduate of an approved naturopathic medical college and pass or have passed a competency-based examination approved by the board, covering the appropriate naturopathic subjects, including basic and clinical sciences;

B. Possess a good ethical and professional reputation;

C. Be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation;

D. Have had no license to practice naturopathic medicine refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that license has been restored to good standing by that state or country; and

E. File an application and pay the licensing fees.

2. Conditional licensure. The board may issue a conditional license to an individual who:

A. Submits an application and a fee to be determined by the board;

B. Has graduated from an approved naturopathic medical college; and

C. Has been practicing naturopathic medicine in this State since January 1, 1994.

A conditional licensee has 3 years from the effective date of this subsection to fulfill all licensure requirements and obtain full licensure. A conditional license expires 3 years from the effective date of this subsection. The scope of practice for a conditional licensee is limited to those therapeutic practices covered by section 12522, subsections 1, 2 and 3 and those prescriptive practices covered by section 12522, subsection 4, paragraph A. A conditional licensee may not prescribe legend drugs or receive specialty certification.

3. Naturopathic acupuncture specialty certification. In order to practice naturopathic acupuncture, a naturopathic doctor must obtain a naturopathic acupuncture specialty certification from the board. The board may issue this specialty certification to a naturopathic doctor who has:

A. Submitted an application and a certification fee to be determined by the board;

B. Completed an acupuncture program approved by the board that includes 1,000 hours of classroom training and 300 hours of supervised clinical training; and

C. Passed an examination administered by the National Commission for the Certification of Acupuncturists.

4. Disclosures. Naturopathic doctors shall:

A. Clearly disclose to each patient and on all printed material that their training is in naturopathic medicine;

B. Openly display their license, attaching renewals and specialty certifications when applicable; and

C. When practicing without malpractice insurance, disclose to each patient that they do not have insurance.

§12526. Fees, renewals and continuing education

1. Fees. Applications for licensing and specialty certification must be on forms prescribed and furnished by the board. The application fee is set by the board by rule and is nonrefundable. An initial license fee must be established by the board in an amount not to exceed \$300. A specialty certification fee must be established by the board in an amount not to exceed \$50 annually.

2. Renewal. A license to practice naturopathic medicine must be renewed annually. The annual license renewal fee established by the board in an amount not to exceed the initial licensing fee must accompany the application for renewal. A specialty certification must be renewed annually. The specialty

certification fee must accompany the application for renewal.

3. Continuing education. When renewing a license, a naturopathic doctor must submit to the board evidence of successful completion of continuing education. The minimum continuing education requirement for license renewal is 25 hours annually, at least 7 hours of which must be in pharmacology. Naturopathic doctors who possess a certification in naturopathic acupuncture must complete an additional 15 hours of board-approved continuing education annually, specific to that specialty. The board may further define and implement these continuing education requirements through rulemaking.

Sec. 14. Rules enacted by the Acupuncture Licensing Board. All rules enacted by the Acupuncture Licensing Board that were in effect on January 1, 1996 are rules of the Board of Complementary Health Care Providers and may only be altered pursuant to the Maine Administrative Procedure Act.

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement Division

All Other	\$2,900
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Allocates funds for the additional cost of adopting new rules pertaining to the regulation of naturopathic doctors by the Board of complementary Health Care Providers.

See title page for effective date.

CHAPTER 672

S.P. 766 - L.D. 1877

An Act to Amend the Laws Concerning Enhanced 9-1-1

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

Sec. 1. 25 MRSA §2927, sub-§1-A is enacted to read:

1-A. Statewide E-9-1-1 surcharge. The activities authorized under this chapter are funded through a special statewide E-9-1-1 surcharge to be levied on each residence and business telephone exchange line, including private branch exchange, or PBX, lines and Centrex lines, trunks serving cellular communications providers in the State and semipublic coin and public access lines. The statewide E-9-1-1 surcharge may not be imposed on more than 25 lines per customer billing account. Through July 31, 1996, the statewide E-9-1-1 surcharge is 2¢ per month per line. Beginning August 1, 1996, the statewide E-9-1-1 surcharge is 20¢ per month per line. The statewide E-9-1-1 surcharge must be billed on a monthly basis by each local exchange telephone utility and be shown separately as a statewide E-9-1-1 surcharge on the customer's bill.

Sec. 2. 25 MRSA §2927, sub-§2-A is enacted to read:

2-A. Surcharge remittance. Each local exchange telephone utility shall remit the statewide E-9-1-1 surcharge revenues collected from its customers pursuant to this section on a monthly basis to the Treasurer of State for deposit in a separate account known as the E-9-1-1 fund.

Sec. 3. 25 MRSA §2927, sub-§5-A is enacted to read:

5-A. Committee recommendations; budget. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding all expenditures from the E-9-1-1 fund established in subsection 2-A.

Sec. 4. 25 MRSA §2927, sub-§7-A is enacted to read:

7-A. Repeal. Subsections 1-A and 2-A are repealed August 1, 1998.

Sec. 5. 25 MRSA §2928, sub-§2 is enacted to read:

2. Records; confidentiality; disclosure. Any record, recording or information obtained by a public or private safety agency, including a public safety answering point, for the purpose of providing E-9-1-1 services and that reveals the name, address or telephone number of, or information that may identify, a person requesting emergency service or reporting an emergency by placing a 9-1-1 call is confidential pursuant to Title 1, section 402, subsection 3,

paragraph A. The information may be disclosed only to public or private safety agencies for processing emergency calls and providing emergency services and to law enforcement officers for investigating criminal conduct. The information may not be utilized for any commercial purpose.

Sec. 6. Commission; report. On or before February 1, 1997, the Public Utilities Commission shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on potential alternative funding mechanisms for long-term funding of the E-9-1-1 system. The report must include recommendations for legislation to implement an alternative funding mechanism.

Sec. 7. Committee; report out legislation. The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation to the First Regular Session and the Second Regular Session of the 118th Legislature regarding the E-9-1-1 system, including, but not limited to, legislation concerning penalties for violations of the Maine Revised Statutes, Title 25, section 2928.

Sec. 8. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

**PUBLIC SAFETY,
DEPARTMENT OF**

**Emergency Services
Communication Bureau**

All Other	\$1,065,000
Capital Expenditures	15,000
TOTAL	\$1,080,000

Provides funds for municipal addressing support, telephone data base development, public safety answering point equipment acquisition and installation, staff training and consulting services to implement a statewide enhanced 9-1-1 system.

See title page for effective date.

CHAPTER 673

S.P. 769 - L.D. 1882

An Act to Create the Maine Health
Care Reform Act of 1996

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

PART A

Sec. A-1. 24-A MRSA §1901, sub-§1, ¶¶M and N, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, are amended to read:

M. A person who adjusts or settles claims in the normal course of that person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or health insurance coverage; ~~and~~

N. A person acting as a trustee, named fiduciary or plan official of an employee benefit plan within the meaning of the federal Employee Retirement Income Security Act of 1974, as amended, 29 United States Code, Section 1001, et seq.; and

Sec. A-2. 24-A MRSA §1901, sub-§1, ¶O is enacted to read:

O. A private purchasing alliance licensed in accordance with chapter 18-A.

Sec. A-3. 24-A MRSA c. 18-A is enacted to read:

CHAPTER 18-A

PRIVATE PURCHASING ALLIANCES§1951. Definitions

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

1. Carrier. "Carrier" means any insurance company, nonprofit hospital and medical service organization or health maintenance organization authorized to issue health plans in this State. For the purposes of this chapter, carriers that are affiliated companies or that are eligible to file consolidated tax returns are treated as one carrier and any restrictions or limitations imposed by this chapter apply as if all health plans delivered or issued for delivery in this State by affiliated carriers were issued by one carrier. For purposes of this chapter, health maintenance organizations are treated as separate organizations from affiliated insurance companies and nonprofit hospital and medical service organizations.

2. Private purchasing alliance. "Private purchasing alliance" or "alliance" means a nonprofit corporation licensed pursuant to this section established under Title 13-B to provide health insurance to its members through multiple unaffiliated participating carriers.

§1952. Licensure

A person or entity may not market, sell, offer or arrange for a package of one or more health benefit plans underwritten by 2 or more carriers without first being licensed by the superintendent. The superintendent shall specify by rule standards and procedures for the issuance and renewal of licenses for private purchasing alliances. A rule may require an application fee of not more than \$400 and an annual license fee of not more than \$100. A license may not be issued until the rulemaking required by this chapter has been undertaken and all required rules are in effect.

§1953. Powers

In addition to the powers granted in Title 13-B, an alliance may do any of the following:

1. Membership fees. Set reasonable fees for membership in the alliance for financing reasonable and necessary costs incurred in administering the alliance;

2. Premium collection. Provide premium collection services for health benefit plans offered through the alliance if the insurer or health maintenance organization offering the plan gives express written authorization to the alliance or any other person or entity acting on behalf of the alliance to act as the insurer's or the health maintenance organization's agent for that purpose;

3. Contracts. Contract with qualified independent 3rd parties for any service necessary to carry out the powers and duties authorized or required by this chapter;

4. Standards. Exclude a carrier or freeze enrollment in a carrier for failure to achieve established quality, access or information reporting standards of the alliance;

5. Data collection. Develop uniform standards for data to be provided by participating carriers and providers. The alliance may collect data necessary for evaluation of the performance of participating carriers and their provider networks by consumers, providers, employers and the superintendent;

6. Negotiation. Negotiate with participating carriers the premium rates charged for coverage

offered through the alliance, consistent with rules adopted by the superintendent; or

7. Risk adjustment. Establish procedures, subject to approval by the superintendent, for adjusting payments within each risk pool to participating carriers if the alliance finds that some carriers have a significantly disproportionate share of high-risk or low-risk enrollees.

§1954. Duties

An alliance shall:

1. Carrier eligibility. Develop and make available a list of objective criteria, subject to rules adopted by the superintendent, that participating carriers must meet in order to be eligible to participate in the alliance;

2. Enrollee choice. Ensure that enrollees have a choice among a reasonable number of competing carriers and types of health benefit plans in accordance with the following.

A. In every portion of the alliance's service area, the alliance must offer at least 3 different carriers. When 3 participating carriers are not reasonably available in some or all of the alliance's service area, the superintendent may waive this requirement in accordance with standards and procedures established by rule pursuant to this chapter.

B. Notwithstanding any other provision of this Title or Title 24 that requires coverage for outpatient benefits, the alliance shall offer at least one health plan providing catastrophic coverage for inpatient hospital benefits only, in accordance with rules developed by the superintendent. The catastrophic plan must offer a range of deductibles, including a \$1,000 deductible plan. This paragraph is repealed on January 1, 2000.

C. Notwithstanding any other provision of this Title or Title 24 that requires coverage for inpatient hospital benefits, the alliance shall offer at least one health plan providing catastrophic coverage for outpatient benefits only, in accordance with rules developed by the superintendent. The outpatient benefit plan must offer a range of deductibles including a \$500 deductible plan. This paragraph is repealed January 1, 2000;

3. Enrollment. Develop standard enrollment procedures in accordance with rules adopted by the superintendent;

4. Plan descriptions. Publish educational materials, plan descriptions and comparison sheets describing participating carriers and the health benefit plans available through the alliance for use in enrolling eligible members. The information may include an assessment of utilization management procedures and the level of quality and cost-effective care;

5. Enrollee eligibility. Establish eligibility standards for membership in accordance with rules adopted by the superintendent. Eligibility standards may not relate to health status;

6. Acceptance of enrollees. Accept all applicants for membership that meet the alliance's eligibility standards;

7. Risk pools. Develop standards for classifying groups of participating members into risk pools. The risk pools may include one or more risk pools for enrolled employees and their dependents and a risk pool for enrolled individuals and their dependents;

8. Annual report. Prepare an annual report on the operations of the alliance to the superintendent, which must include an accounting of all outside revenues received by the alliance and internal and independent audits and any other information the superintendent may require;

9. Trust account. Maintain a trust account or accounts for deposit of all money received and collected for the operation of the alliance. An alliance and its board members, employees and agents have a fiduciary duty with respect to all money received or owed to it to ensure payments of its obligations and a full accounting to its members and the superintendent; and

10. Violations. Report to the superintendent any suspected or alleged law violations.

The superintendent may specify further duties by rule.

§1955. Restrictions

1. Restricted activities. An alliance may not purchase health care services, assume risk for the cost or provision of health services or otherwise contract with health care providers for the provision of health care services to enrollees.

2. Licensing. A person who solicits applications for insurance, negotiates insurance contracts or takes applications for insurance from enrollees on behalf of an alliance or on behalf of insurance carriers or health maintenance organizations that have contracted with the alliance must be licensed with the bureau in compliance with chapter 17.

3. Conflict of interest. A person may not be a board member, officer or employee of an alliance if that person is employed as or by, is a member of the board of directors of, is an officer of, or has a material direct or indirect ownership interest in a carrier, health care provider or insurance agency or brokerage. A person may not be a board member or officer of an alliance if a member of that person's household is a member of the board of directors of, is an officer of or has a material direct or indirect ownership interest in a carrier, health care provider or insurance agency or brokerage. A board member, officer or employee of an alliance who is licensed as an agent, broker or consultant may act under that license only on behalf of the alliance and only within the scope of that person's duties as a board member, officer or employee.

4. Commissions. All commissions or other payments to the alliance from or on behalf of carriers must inure to the benefit of the alliance and alliance members. An employee of an alliance may not receive compensation that is contingent upon the amount of coverage sold or upon the health carrier that is chosen. This subsection does not prohibit an alliance from arranging coverage through an unaffiliated agent or broker who is paid on a commission basis in the ordinary course of business.

5. Rulemaking. The superintendent may specify further restrictions by rule.

§1956. Authority of superintendent

1. Alliance conduct. The superintendent has the authority to regulate the establishment and conduct of alliances as set forth in this chapter.

2. Representations. A person or entity not licensed by the superintendent as a private purchasing alliance and engaged in the purchase, sale, marketing or distribution of health insurance or health care benefit plans may not represent itself as an alliance, health insurance purchasing alliance, purchasing alliance, health insurance purchasing cooperative or purchasing cooperative, or otherwise use a confusingly similar name.

3. Conflict. Nothing in this chapter may be considered in conflict with or limit the duties and powers granted to the superintendent under the laws of this State.

4. Penalties. Violations of this chapter are subject to the penalties contained in section 12-A.

§1957. Rulemaking

The superintendent shall adopt rules necessary to carry out the requirements of this chapter before January 1, 1997. All rules adopted pursuant to this

chapter are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. A-4. 24-A MRSA §2804-A is enacted to read:

§2804-A. Private purchasing alliances

A group of individuals may be insured under a policy issued to a private purchasing alliance meeting the requirements of chapter 18-A.

Sec. A-5. 24-A MRSA §2808-B, sub-§1, ¶H, as enacted by PL 1991, c. 861, §2, is amended to read:

H. "Subgroup" means an employer with fewer than 25 employees within an association or a multiple employer trust, a private purchasing alliance or any similar subdivision of a larger group covered by a single group health policy or contract.

Sec. A-6. 24-A MRSA §2808-B, sub-§2, ¶F is enacted to read:

F. Premium rates charged to a private purchasing alliance, as defined by chapter 18-A, may be reduced in accordance with rules adopted pursuant to that chapter.

PART B

Sec. B-1. 24 MRSA §2349, sub-§2, ¶B, as enacted by PL 1989, c. 867, §1 and affected by §10, is repealed and the following enacted in its place:

B. Coverage under the prior contract or policy terminated:

(1) Within 180 days before the date the person enrolls or is eligible to enroll in the succeeding contract if:

(a) Coverage was terminated due to unemployment, as defined in Title 26, section 1043;

(b) The person was eligible for and received unemployment compensation benefits for the period of unemployment, as provided under Title 26, chapter 13; and

(c) The person is employed at the time replacement coverage is sought under this provision; or

(2) Within 3 months before the date the person enrolls or is eligible to enroll in the succeeding contract.

A period of ineligibility for any health plan imposed by terms of employment may not be considered in determining whether the coverage ended within a time period specified under this section.

Sec. B-2. 24-A MRSA §707, sub-§3, as amended by PL 1995, c. 375, Pt. C, §4, is further 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 No later than July 1, 1997, the superintendent may shall~~ by rule set standards distinguishing excess insurance from basic insurance. In developing these standards, the superintendent may consider the analysis supporting the recommendations of the National Association of Insurance Commissioners.

Sec. B-3. 24-A MRSA §2849-B, sub-§2, ¶B, as amended by PL 1993, c. 666, Pt. D, §4, is repealed and the following enacted in its place:

B. Coverage under the prior contract or policy terminated:

(1) Within 180 days before the date the person enrolls or is eligible to enroll in the succeeding contract if:

(a) Coverage was terminated due to unemployment, as defined in Title 26, section 1043;

(b) The person was eligible for and received unemployment compensation benefits for the period of unemployment, as provided under Title 26, chapter 13; and

(c) The person is employed at the time replacement coverage is sought under this provision; or

(2) Within 3 months before the date the person enrolls or is eligible to enroll in the succeeding contract.

A period of ineligibility for any health plan imposed by terms of employment may not be considered in determining whether the coverage ended within a time period specified under this section; and

PART C

Sec. C-1. 24-A MRSA c. 56-A is enacted to read:

CHAPTER 56-A

HEALTH PLAN IMPROVEMENT ACT

§4301. Definitions

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

1. Carrier. "Carrier" means an insurance company licensed in accordance with this Title, a health maintenance organization licensed pursuant to chapter 56, a preferred provider organization licensed pursuant to chapter 32 or a nonprofit hospital or medical service organization licensed pursuant to Title 24. An employer exempted from the applicability of this chapter under the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) is not considered a carrier.

2. Enrollee. "Enrollee" means an individual who is enrolled in a health plan or a managed care plan.

3. Health plan. "Health plan" means a plan offered or administered by a carrier that provides for the financing or delivery of health care services to persons enrolled in the plan.

4. Managed care plan. "Managed care plan" means a plan offered or administered by a carrier that provides for the financing or delivery of health care services to persons enrolled in the plan through:

A. Arrangements with selected providers to furnish health care services; and

B. Financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan.

A return to work program developed for the management of workers' compensation claims may not be considered a managed care plan.

5. Participating provider. "Participating provider" means a licensed or certified provider of health care services, including mental health services, or health care supplies that has entered into an agreement with a carrier to provide those services or supplies to an individual enrolled in a managed care plan.

6. Plan sponsor. "Plan sponsor" means an employer, association, public agency or any other entity providing a health plan.

§4302. Reporting requirements

To offer a health plan in this State, a carrier must comply with the following requirements.

1. Description of plan. A carrier shall provide to prospective enrollees and participating providers, and to members of the public and nonparticipating providers upon request, information on the terms and conditions of the plan to enable those persons to make informed decisions regarding their choice of plan. A carrier shall provide this information annually to current enrollees, participating providers and the superintendent. This information must be presented in a standardized format acceptable to the superintendent. In adopting rules or developing standardized reporting formats, the superintendent shall consider the nature of the health plan and the extent to which rules or standardized formats are appropriate to the plan. All written and oral descriptions of the health plan must be truthful and must use appropriate and objective terms that are easy to understand. These descriptions must be consistent with standards developed for supplemental insurance coverage under the United States Social Security Act, Title XVIII, 42 United States Code, Sections 301 to 1397 (1988). Descriptions of plans under this subsection must be standardized so that enrollees may compare the attributes of the plans. After a carrier has provided the required information, the annual information requirement under this subsection may be satisfied by the provision of any amendments to the materials on an annual basis. Specific items that must be included in a description are as follows:

A. Coverage provisions, benefits and any exclusions by category of service, type of provider and, if applicable, by specific service, including but not limited to the following types of exclusions and limitations:

- (1) Health care services excluded from coverage;
- (2) Health care services requiring copayments or deductibles paid by enrollees;
- (3) Restrictions on access to a particular provider type; and
- (4) Health care services that are or may be provided only by referral;

B. Any prior authorization or other review requirements, including preauthorization review, concurrent review, postservice review,

postpayment review and any procedures that may result in the enrollee being denied coverage or not being provided a particular service;

C. A general description of the methods used to compensate providers, including capitation and methods in which providers receive compensation based upon referrals, utilization or cost criteria;

D. An explanation of how health plan limitations affect enrollees, including information on enrollee financial responsibilities for payment of coinsurance or other noncovered or out-of-plan services and limits on preexisting conditions and waiting periods;

E. The terms under which the health plan may be renewed by the plan members or enrollees, including any reservation by the health plan of any right to increase premiums;

F. A statement as to when benefits cease in the event of nonpayment of the prepaid or periodic premium and the effect of nonpayment upon the enrollees who are hospitalized or undergoing treatment for an ongoing condition;

G. A description of the manner in which the plan addresses the following: the provision of appropriate and accessible care in a timely fashion; an effective and timely grievance process and the circumstances in which an enrollee may obtain a 2nd opinion; timely determinations of coverage issues; confidentiality of medical records; and written copies of coverage decisions that are not explicit in the health plan agreement. The description must also include a statement explaining the circumstances under which health status may be considered in making coverage decisions in accordance with state and federal laws and that enrollees may refuse particular treatments without jeopardizing future treatment;

H. Procedures an enrollee must follow to obtain drugs and medicines that are subject to a plan list or plan formulary, if any; a description of the formulary; and a description of the extent to which an enrollee will be reimbursed for the cost of a drug that is not on a plan list or plan formulary. Enrollees may request additional information related to specific drugs that are not on the drug formulary; and

I. Information on where and in what manner health care services may be obtained.

2. Plan complaint; adverse decisions; prior authorization statistics. A carrier shall provide annually to the superintendent information for each

health plan that it offers on plan complaints, adverse decisions and prior authorization statistics. This statistical information must contain, at a minimum:

A. The ratio of the number of complaints received by the plan to the total number of enrollees, reported by type of complaint and category of enrollee;

B. The ratio of the number of adverse decisions issued by the plan to the number of complaints received, reported by category;

C. The ratio of the number of prior authorizations denied by the plan to the number of prior authorizations requested, reported by category;

D. The ratio of the number of successful enrollee appeals to the total number of appeals filed;

E. The percentage of disenrollments by enrollees and providers from the health plan within the previous 12 months and the reasons for the disenrollments. With respect to enrollees, the information provided in this paragraph must differentiate between voluntary and involuntary disenrollments; and

F. Enrollee satisfaction statistics, including provider-to-enrollee ratio by geographic region and medical specialty and a report on what actions, if any, the carrier has taken to improve complaint handling and eliminate the causes of valid complaints.

3. Acceptable methods of providing information. A carrier may meet any of the reporting requirements set forth in this section by providing information in conformity with the requirements of the federal Health Maintenance Organization Act of 1973, 42 United States Code, Sections 280c and 300e to 300e-17 (1988), or any other applicable state or federal law or any accrediting organization recognized by the superintendent, as long as the superintendent finds that the information is substantially similar to the information required by this section and is presented in a format that provides a meaningful comparison between health plans. When the superintendent determines that it is feasible and appropriate, the information required by this section must be provided by geographic region, age, gender and type of employer or group. With respect to geographical breakdown, the information must be provided in a manner that permits comparisons between urban and rural areas.

§4303. Plan requirements

A carrier offering a health plan in this State must meet the following requirements.

1. Demonstration of adequate access to providers. A carrier offering a managed care plan shall provide to its members reasonable access to health care services in accordance with standards developed by rule by the superintendent before January 1, 1997. These standards must consider the geographical and transportation problems in rural areas.

2. Credentialling. The credentialling of providers by a carrier offering a managed care plan is governed by this subsection.

A. The granting of credentials must be based on objective standards that are available to providers upon application for credentialling.

B. All decisions regarding the granting of credentials, including a decision to deselect a provider, must be in writing. The provider must be provided with all reasons for the denial of an application, nonrenewal of a contract or termination of a contract.

C. A carrier shall establish and maintain an appeal procedure, including the provider's right to a hearing, for dealing with provider concerns relating to the denial of credentialling for not meeting the objective credentialling standards of the plan and the contractual relationship between the carrier and the provider. The superintendent shall determine whether the process provided by a carrier is fair and reasonable. This procedure must be specified in every contract between a carrier and a provider or between a carrier and a provider network if a carrier does not contract with providers individually.

3. Provider's right to advocate for medically appropriate care. A carrier offering a managed care plan may not terminate or otherwise discipline a participating provider because the provider advocates for medically appropriate health care. A carrier may not restrict a provider from disclosing to any enrollee any information the provider determines appropriate regarding the nature of treatment and any risks or alternatives to treatment, the availability of other therapy, consultations or tests or the decision of any plan to authorize or deny health care services or benefits.

A. For the purposes of this section, "to advocate for medically appropriate health care" means to discuss or recommend a course of treatment to an enrollee; to appeal a managed care plan's decision to deny payment for a service pursuant

to an established grievance or appeal procedure; or to protest a decision, policy or practice that the provider, consistent with the degree of learning and skill ordinarily possessed by reputable providers, reasonably believes impairs the provider's ability to provide medically appropriate health care to the provider's patients.

B. Nothing in this subsection may be construed to prohibit a plan from making a determination not to pay for a particular medical treatment or service or to enforce reasonable peer review or utilization review protocols.

4. Grievance procedure for enrollees. A carrier offering a health plan in this State shall establish and maintain a grievance procedure that meets standards developed by the superintendent to provide for the resolution of claims denials or other matters by which enrollees are aggrieved.

A. The grievance procedure must include, at a minimum, the following:

(1) Notice to the enrollee promptly of any claim denial or other matter by which enrollees are likely to be aggrieved, stating the basis for the decision, the right to file a grievance, the procedure for doing so and the time period in which the grievance must be filed;

(2) Timelines within which grievances must be processed, including expedited processing for exigent circumstances. Timelines must be sufficiently expeditious to resolve grievances promptly;

(3) Procedures for the submission of relevant information and enrollee participation;

(4) Provision to the aggrieved party of a written statement upon the conclusion of any grievance process, setting forth the reasons for any decision. The statement must include notice to the aggrieved party of any subsequent appeal rights within the plan, the procedure and time limitations for taking such an appeal, notice of the right to file a complaint with the Bureau of Insurance and the toll-free telephone number of the bureau; and

(5) Decision-making by one or more individuals not previously involved in making the decision subject to the grievance.

B. In any appeal under the grievance procedure in which a professional medical opinion

regarding a health condition is a material issue in the dispute, the aggrieved party is entitled to an independent 2nd opinion, paid for by the plan, of a provider of the same specialty participating in the plan. If a provider of the same specialty does not participate in the plan, then the 2nd opinion must be given by a nonparticipating provider.

§4304. Utilization review

The following requirements apply to health plans in this State that require prior authorization by the plan of health care services or otherwise subject payment of health care services to review for clinical necessity, appropriateness, efficacy or efficiency. A carrier offering a health plan subject to this section that contracts with other entities to perform utilization review on the carrier's behalf is responsible for ensuring compliance with this section and chapter 34.

1. Requirements for medical review or utilization review practices. A carrier must appoint a medical director who is responsible for reviewing and approving the carrier's policies governing the clinical aspects of coverage determinations by any health plan that it offers.

2. Prior authorization of nonemergency services. Requests by a provider for prior authorization of a nonemergency service must be answered by a carrier within 2 business days. If the information submitted is insufficient to make a decision, the carrier shall notify the provider within 2 business days of the additional information necessary to render a decision. If the carrier determines that outside consultation is necessary, the carrier shall notify the provider and the enrollee for whom the service was requested within 2 business days. The carrier shall make a good faith estimate of when the final determination will be made and contact the enrollee and the provider as soon as practicable. Notification requirements under this subsection are satisfied by written notification postmarked within the time limit specified.

3. Background information; affirmative duty of provider. A provider has an affirmative duty to submit to the carrier the background information necessary for the carrier to complete its review and render a decision within the time period required in subsection 2. If the provider needs additional time to submit that required information, the provider must inform the carrier in a timely manner. Nothing in this section requires a provider to submit confidential information without a signed consent from the enrollee.

4. Revocation of prior authorization. When prior approval for a service or other covered item is granted, a carrier may not retrospectively deny coverage or payment for the originally approved

service unless fraudulent or materially incorrect information was provided at the time prior approval for the service was granted.

§4305. Quality of care

A carrier must meet the following requirements relating to quality of care.

1. Internal quality assurance program. A health plan must have an ongoing quality assurance program for the health care services provided or reimbursed by the health plan.

2. Written standards. The standards of quality of care must be described in a written document, which must be available for examination by the superintendent or by the Department of Human Services.

3. Coverage decisions. Following a determination that a particular service is covered, a carrier may not deny payment for that service based on the enrollee's age, nature of disability or degree of medical dependency.

§4306. Enrollee choice of primary care physician

A carrier offering a managed care plan shall allow enrollees to choose their own primary care physicians, as allowed under the managed care plan's rules, from among the panel of participating providers made available to enrollees under the managed care plan's rules. A managed care plan must allow enrollees to change primary care physicians without good cause at least once annually and to change with good cause as necessary. When an enrollee fails to choose a primary care physician, the managed care plan may assign the enrollee a primary care physician located in the same geographic area in which the enrollee resides.

§4307. Construction

Nothing in this chapter may be construed to:

1. Purchase services with own funds. Prohibit an individual from purchasing any health care services with that individual's own funds, whether these services are covered within the individual's benefit package or from another health care provider or plan, except as otherwise provided by federal or state law;

2. Additional benefits. Prohibit any plan sponsor from providing additional coverage for benefits, rights or protections not set out in this chapter; or

3. Provider participation. Require a carrier to admit to a managed care plan a provider willing to abide by the terms and conditions of the managed care plan.

§4308. Liability

1. Indemnification. A contract between a carrier and a provider for the provision of services to enrollees may not require the provider to indemnify the carrier for any expenses and liabilities, including, without limitation, judgments, settlements, attorney's fees, court costs and any associated charges incurred in connection with any claim or action brought against the health plan based on the carrier's own fault. Nothing in this subsection may be construed to remove responsibility of a carrier or provider for expenses or liabilities caused by the carrier's or provider's own negligent acts or omissions or intentional misconduct.

§4309. Adoption of rules

The superintendent shall adopt rules and establish standards for health plans in order to carry out the purposes of this chapter. Rules adopted pursuant to this chapter are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. C-2. Effective date. This Part takes effect January 1, 1997.

PART D

Sec. D-1. 24-A MRSA §4202-A, sub-§10, ¶A, as enacted by PL 1991, c. 709, §2, is amended to read:

A. Provides, arranges or pays for, or reimburses the cost of, health care services, including, at a minimum, basic health care services to enrolled participants, except that health maintenance organizations contracting with the State Government or the Federal Government to service Medicaid or Medicare populations may limit the services they provide under the contracts consistent with the terms of those contracts if such basic health care services are provided to those populations by other means;

Sec. D-2. 24-A MRSA §4203, sub-§3, ¶L, as enacted by PL 1975, c. 503, is amended to read:

L. A description of the complaint and grievance procedures to be utilized as required under section 4303, subsection 4 and section 4211;

Sec. D-3. 24-A MRSA §4204, sub-§2-A, ¶L, as enacted by PL 1993, c. 702, Pt. B, §1, is repealed and the following enacted in its place:

L. The health maintenance organization meets the requirements of section 4303, subsection 1.

Sec. D-4. 24-A MRSA §4209, sub-§1, ¶B, as enacted by PL 1989, c. 842, §15, is amended to read:

B. A description of the organizational structure and operation of the health maintenance organization, including the kind and extent of enrollee participation; and a summary of any material changes since the issuance of the last report; and

Sec. D-5. 24-A MRSA §4209, sub-§1, ¶C and ¶D, as enacted by PL 1989, c. 842, §15, are repealed.

Sec. D-6. 24-A MRSA §4209, sub-§1, ¶E is enacted to read:

E. A description of the plan as required under section 4302, subsection 1.

Sec. D-7. 24-A MRSA §4222-B, sub-§9 is enacted to read:

9. The requirements of chapter 56-A and any rules adopted pursuant to that chapter apply to health maintenance organizations.

Sec. D-8. 24-A MRSA §4234-A, sub-§11, as enacted by PL 1995, c. 407, §10, is amended to read:

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. Contracts entered into with the State Government or the Federal Government to service Medicaid or Medicare populations may limit the services provided under such contracts consistent with the terms of those contracts if mental health services are provided to these populations by other means. For purposes of this section, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. D-9. Allocation. The following funds are allocated from the Insurance Regulatory Fund to carry out the purposes of this Act.

1996-97

**PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF**

Bureau of Insurance

All Other \$15,000

Allocates funds for the costs of adopting rules pertaining to certain changes in health care

insurance regulatory requirements.

See title page for effective date, unless otherwise indicated.

CHAPTER 674

H.P. 1389 - L.D. 1891

**An Act to Clarify the Gambling
Laws of Maine**

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

Sec. 1. 17 MRSA §330, sub-§2, as repealed and replaced by PL 1977, c. 350, §1, is repealed and the following enacted in its place:

2. Game of chance. "Game of chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that can not be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance. For purposes of this chapter, beano and bingo are not games of chance.

Sec. 2. 17 MRSA §330, sub-§2-A, as enacted by PL 1983, c. 225, §1, is repealed and the following enacted in its place:

2-A. Game of skill. "Game of skill" means any game, contest, scheme or device in which a person stakes or risks something of value for the opportunity to win something of value and that is not a game of chance.

Sec. 3. 17 MRSA §343, as amended by PL 1983, c. 705, §8, is further amended by adding at the end a new paragraph to read:

The Chief of the State Police shall provide a mechanism for individuals and businesses to request a determination from the State Police as to whether a particular game, contest, scheme or device qualifies as a game of chance or a game of skill.

Sec. 4. 17-A MRSA §952, sub-§3, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

3. Contest of chance. "Contest of chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value;

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and

C. Chance enters as an element that influences the outcome in a manner that can not be eliminated through the application of skill.

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance.

Sec. 5. Report. The Governor shall report to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs no later than January 31, 1997 on the status and any recommendations of national gaming studies or commissions convened by the United States Congress.

Sec. 6. Notification. The Chief of the State Police shall notify all games of chance licensees, licensed distributors of gambling apparatus or implements, holders of Class A restaurant or lounge, club, or hotel licenses, incorporated civic organizations, and the Maine Gaming Association of the passage of this Act and the availability of a

predetermination under the Maine Revised Statutes, Title 17, section 343.

See title page for effective date.

CHAPTER 675

H.P. 212 - L.D. 271

An Act to Establish an Electronic Benefit Transfer System for Programs Administered by State Government

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

Sec. 1. 22 MRSA c. 1, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

ELECTRONIC BENEFIT TRANSFER SYSTEM

§21. Definitions

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

1. AFDC. "AFDC" means the Aid to Families with Dependent Children program administered pursuant to chapter 1053.

2. Automated teller machine or ATM. "Automated teller machine" or "ATM" means a machine that accepts a debit card distributed to recipients; to the extent permitted by federal law on the effective date of this subchapter, issues funds from established accounts to recipients; and records and reports individual recipient account activity related to the deposit and distribution of recipient cash benefits.

3. Debit card. "Debit card" means an encoded plastic card distributed by the department or another department or a contractor with that department for use in an automated teller machine or a point of sale device.

4. Electronic benefits transfer system or EBT. "Electronic benefits transfer system" or "EBT" means a system for the delivery of benefits to recipients by means of automated teller machines or point of sale devices.

5. Food stamps. "Food stamps" means the food stamp program established pursuant to section 3104.

6. Medicaid. "Medicaid" means the Medicaid program under the provisions of the United States Social Security Act, Title XIX, and successors to it.

and related rules of the department pursuant to chapter 855.

7. Other department or another department.

"Other department" or "another department" means a department of the State other than the Department of Human Services.

8. Other program or another program.

"Other program" or "another program" means a program of the department not defined as a program in subsection 10 or a program of another department that is approved for addition to the EBT system.

9. Point of sale device. "Point of sale device" means a machine that accepts a debit card distributed to recipients; electronically processes transactions at the vendor's place of business; and records and reports individual recipient benefit entitlement and distribution.

10. Program. "Program" means the AFDC program, food stamps or Medicaid program or another program.

11. Recipient. "Recipient" means a recipient of benefits under the AFDC, food stamp or Medicaid programs or another program.

12. Vendor. "Vendor" means an authorized retailer, wholesaler or health care provider that provides food, cash benefits or health care services to a recipient.

§22. Electronic benefit transfer system established

The department is authorized to establish an electronic benefit transfer system for the issuance of benefits under the AFDC, food stamp and Medicaid programs.

1. Rulemaking. In accordance with Title 5, chapter 375, the department shall adopt rules required for implementation of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

2. Other programs. The department may add other programs to the EBT system if approved for addition by their respective departments, as long as rules are adopted by the department and other departments for the administration of and delivery of benefits under those programs.

3. Participation. All recipients of benefits under the AFDC, food stamp and Medicaid program or another program approved for addition under subsection 2 must participate in the EBT system.

4. Restriction. The following requirements apply prior to implementation of the EBT system and as applied to each program using the EBT system:

A. The department and other departments must determine that use of the EBT system will not decrease benefits or result in unreasonable costs to the recipients; and

B. The department and other departments must successfully complete a request-for-proposals evaluation and contract negotiations that ensure that the EBT system will be cost-effective for the individual program.

Sec. 2. Report. By January 1, 1997, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over human resource matters on progress in implementing the electronic benefit transfer system established under the Maine Revised Statutes, Title 22, section 22.

See title page for effective date.

CHAPTER 676

H.P. 370 - L.D. 505

**An Act to Implement the
Recommendations of the Committee
to Study the Operations of the
Governor Baxter School for the Deaf**

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

Sec. 1. 5 MRSA §12004-C, sub-§7 is enacted to read:

<u>7. School</u>	<u>Legislative</u>	<u>20-A MRSA</u>
<u>Board of the</u>	<u>Per Diem</u>	<u>§7406</u>
<u>Governor Baxter</u>	<u>and</u>	
<u>School for the</u>	<u>Expenses</u>	
<u>Deaf</u>		

Sec. 2. 5 MRSA §12004-I, sub-§15, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 3. 20-A MRSA §202, sub-§6, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 4. 20-A MRSA §256, sub-§§8 and 9, as enacted by PL 1991, c. 591, Pt. I, §1, are repealed.

Sec. 5. 20-A MRSA c. 304 is enacted to read:

CHAPTER 304

**GOVERNOR BAXTER SCHOOL FOR THE
DEAF**

§7401. School established

The Governor Baxter School for the Deaf is established as a public school pursuant to this chapter for the purpose of educating deaf students.

§7402. Definitions

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

1. School. "School" means the Governor Baxter School for the Deaf.

2. School board. "School board" means the School Board of the Governor Baxter School for the Deaf.

3. Sending school. "Sending school" means any school administrative unit that has a student in attendance at the Governor Baxter School for the Deaf.

4. Superintendent. "Superintendent" means the Superintendent of the Governor Baxter School for the Deaf.

§7403. Location

The school is located on Mackworth Island.

§7404. Funding; tuition

The following provisions apply to funding for and tuition to the school.

1. Funding. Students from this State may attend the school free of tuition and room and board expense. Funding for these students is provided based on the amount necessary to satisfy the individualized education programs of the students, as defined by department rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. Funding must support maintenance of the school and that portion of the island used by the school, security, outreach services, adult education, access to the education network of Maine and operations of the school, including the residential program, parent-infant program, preschool program and communication garden program.

2. Out-of-state tuition. Students from other states and countries may attend the school on a space-available basis by paying the cost of tuition, fees and room and board as established by the school board.

§7405. Enrollment; state and federal educational services requirements; technical assistance

The following provisions apply to student enrollment, state and federal educational services requirements and technical assistance.

1. Enrollment. The superintendent of the school administrative unit in which a deaf student resides, with the consent of that student's parent or legal guardian and in accordance with the limitations in section 5051, may enroll that student in the school. The sums necessary for tuition and room and board of the student while attending the school, as determined by the individualized education program of the student, must be paid by the department.

2. State and federal educational services requirements. The school must comply with all standards for state public schools and must comply with all federal and state laws and department rules for the provision of educational services to children with disabilities.

3. Technical assistance. A school administrative unit may request technical assistance from the school in matters relating to the education of deaf students.

§7406. School board

The School Board of the Governor Baxter School for the Deaf is established as the policy-making authority and the governing body of the school.

1. Membership. In appointing members to the school board, the Governor shall give proper consideration to achieving statewide geographical representation, cultural equity and gender equity. The Governor shall appoint 13 voting members and 2 nonvoting members as follows:

A. Three parents of students who attend the school;

B. Three deaf representatives of the State's deaf community;

C. Two individuals with expertise in deaf education who are not employed by the school;

D. Four members of the general public;

E. One parent of a deaf child who is enrolled in a local educational agency receiving services from the school's outreach program; and

F. Two students who attend the school, who are nonvoting members.

2. Chair. The school board shall choose annually one of its members to serve as chair.

3. Meetings. The school board shall meet at regular intervals.

4. Quorum. Each voting member of the school board is entitled to one vote. Seven members of the school board constitute a quorum for the transaction of any official business, except that 8 affirmative votes are necessary to approve the budget.

5. Terms of voting members. The terms of the voting members of the school board are for 3 years, unless otherwise designated, and are staggered. Of the initial appointees, one each as designated in subsection 1, paragraphs A to D, must be appointed for a term of 3 years; one each as designated in subsection 1, paragraphs A to D, must be appointed for a term of 2 years; and one each as designated in subsection 1, paragraphs A, B and E, must be appointed for a term of one year. Members may be appointed for consecutive terms.

6. Terms of nonvoting members. The terms of the nonvoting student members, pursuant to subsection 1, paragraph F, must be determined by the school board. The school board shall submit a list of recommendations to the Governor to aid in making appointments of nonvoting members.

7. Expenses. Voting members of the school board must be compensated according to the provisions of Title 5, chapter 379.

8. Appointments. The Governor shall appoint members to the school board by September 1, 1996.

§7407. Powers and duties of school board

The powers and duties of the school board include the following.

1. Policies. The school board shall develop and adopt policies and rules necessary for the operation of the school.

2. Selection of superintendent. The school board shall hire a superintendent.

3. Administration. The school board shall oversee the administration of the school, including the hiring of academic, residential, outreach and support staff.

4. Budget development. The school board shall, with the aid of the superintendent and staff, prepare an annual budget for the operation of the school and exercise budgetary responsibility. It shall allocate for expenditure by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs. Annually,

before September 1st, the school board shall submit to the department its budget proposal for review and inclusion in the department's budget for the following fiscal year. The budget for operation of the school is subject to review and revision by the Governor or Governor-elect in accordance with Title 5, section 1666.

5. Financial management. The school board may accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private source and shall comply with rules and regulations governing grants from the Federal Government or from any other source.

6. Collection of fees. The school board may charge service and rental fees for use of facilities at the school. Any funds received for service and rental fees must be retained by the school.

7. Indemnification. The school board shall indemnify the employees and other agents of the school and purchase and maintain insurance to indemnify those persons to the extent provided in Title 13-B, section 714. The school board may indemnify members of the school board.

8. Bonds. The school board shall require security for the faithful performance of duties by employees and other agents of the school who are entrusted with the custody of the school securities or authorized to disburse the funds of the school. The security must consist of a bond, either a blanket bond or individual bond with a surety bond, or bonds having a minimum limitation of \$100,000 coverage for each insured person. The expense of a bond is assumed by the school.

9. Property management. The school board may acquire by purchase any property, lands, buildings, structures, facilities or equipment and make improvements to facilities necessary to fulfill the purposes of this chapter. The State retains ownership of Mackworth Island and the school facilities. Notwithstanding section 7403, the school board may make alternative plans regarding the location of the school.

10. Island access. The school board shall consult regularly with the Department of Conservation, Bureau of Parks and Lands on public access and management of that portion of Mackworth Island under the jurisdiction of that bureau.

11. Certificates and diplomas. The school board shall offer courses of study and grant diplomas and certificates on completion of courses of study. This granting of diplomas and certificates may be done in cooperation with the sending school.

12. Contracts and agreements. The school board may enter into any contracts and agreements, to the extent that funds are available, in the execution of its powers under this chapter.

13. Delegation. The school board may delegate duties and responsibilities as necessary for the efficient operation of this chapter.

14. Criteria for enrollment. The school board shall establish criteria to be used in determining eligibility of applicants for enrollment.

15. Student conduct. The school board shall prepare and adopt procedures and rules to ensure the smooth operation of student conduct standards.

16. Individualized education programs, standards and measurements. The school board shall ensure that services required to meet the individualized education program for each student are provided by the school. The school board shall establish standards and methods of measuring progress in the levels of academic achievement for students who participate in school programs and establish standards and methods of measuring progress in the professional development of teachers who participate in school programs. The school board shall assess students and teachers according to those standards and measurements.

17. School programs. The school board may create, maintain and expand programs at the school and programs for children served by the school.

18. Fees and charges. The school board shall establish and collect necessary fees and set policies relating to other appropriate charges for students.

19. Report. The school board shall report biennially to the Governor and the joint standing committee of the Legislature having jurisdiction over education matters on the results of the assessments required by subsection 16 and the general status of the school.

§7408. Powers and duties of superintendent

The powers and duties of the superintendent include the following.

1. Staff and administration. The superintendent shall hire staff and administer school operations.

2. Enrollment. The superintendent shall work with superintendents from other school administrative units, pursuant to section 7405, subsection 1, to enroll students.

§7409. School year

The school must operate on a calendar year that meets or exceeds the minimum number of statewide student instructional days.

§7410. Department assistance; limitation

1. Administrative assistance. The department shall provide administrative assistance to the school, including assistance with budgeting and general administrative support, subject to a written agreement with the school board.

2. Limitation. The department has no authority or responsibility for the operation of the school and is not liable as a result of the operation of the school by the school board.

Sec. 6. 20-A MRSA §7503, as amended by PL 1987, c. 395, Pt. A, §77, is repealed.

Sec. 7. 20-A MRSA §13402, sub-§3, as amended by PL 1983, c. 520, is further amended to read:

3. Substitute teachers. Substitute teachers shall must be compensated at the rate of not less than \$30 for each day of service. Any substitute teacher under contract with the Governor Baxter School for the Deaf is deemed for the purposes of civil liability to be an employee of a governmental entity under the Maine Tort Claims Act.

Sec. 8. 20-A MRSA §13502, sub-§1, ¶C, as enacted by PL 1983, c. 859, Pt. J, §§2 and 7, is amended to read:

C. Schools operated by an agency of State Government, including the following:

- (1) ~~Baxter School for the Deaf;~~
- (2) Arthur R. Gould School; and
- (3) ~~Pineland State (Berman School); and~~
- (4) Education of children in unorganized territories.

Sec. 9. 22 MRSA §3174-D, as amended by PL 1989, c. 700, Pt. A, §79, is further amended to read:

§3174-D. Medicaid coverage for services provided by the Governor Baxter School for the Deaf

The Department of Human Services may administer a program of Medicaid coverage for speech and hearing services, psychological services, occupational therapy and any other services provided by the Governor Baxter School for the Deaf ~~which~~

that qualify for reimbursement under the United States Social Security Act, Title XIX. The Department of Education shall have has fiscal responsibility for providing the State's match for federal revenues acquired under this section. An amount equal to the Medicaid reimbursement shall be deposited into the General Fund undedicated revenue from the Governor Baxter School for the Deaf General Fund appropriation. Any funds received as Medicaid reimbursement must be retained by the Governor Baxter School for the Deaf.

Sec. 10. P&SL 1897, c. 446, as amended by P&SL 1953, c. 100, is repealed.

Sec. 11. Transition provisions.

1. The Governor Baxter School for the Deaf, established pursuant to the Maine Revised Statutes, Title 20-A, section 7401, is the successor in every way to the functions and duties of the former Governor Baxter School for the Deaf, established pursuant to Private and Special Law 1897, chapter 446.

2. The Governor shall complete appointments to the School Board for the Governor Baxter School for the Deaf by September 1, 1996. Once appointed, the school board may begin to develop policy and hiring plans to take effect on or after January 1, 1997.

3. The Policy Review Board for the Governor Baxter School for the Deaf and the Superintendent of the Governor Baxter School for the Deaf shall submit to the Department of Education the school's proposed budget for the 1997-98 fiscal year no later than August 15, 1996.

4. Employees of the Governor Baxter School for the Deaf remain state employees in the bargaining units established by the Maine Labor Relations Board and continue to receive all applicable rights and benefits.

5. Unless limited by prior agreement, all existing contracts, agreements and compacts currently in effect at the Governor Baxter School for the Deaf continue in effect after January 1, 1997.

6. All records, property and equipment previously belonging to or allocated for the use of the former Governor Baxter School for the Deaf become, on January 1, 1997, part of the property of the new Governor Baxter School for the Deaf.

7. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the former Governor Baxter School for the Deaf may be utilized by the new Governor Baxter School for the Deaf until existing supplies of these items are exhausted.

8. Any positions authorized and allocated subject to the personnel laws of the former Governor Baxter School for the Deaf are transferred to the new Governor Baxter School for the Deaf and continue to be authorized on or after January 1, 1997.

9. The Policy Review Board of the Governor Baxter School for the Deaf may continue to meet until January 1, 1997.

10. The Department of Education shall provide any necessary administrative assistance to the Governor Baxter School for the Deaf from January 1, 1997 until July 1, 1999 through a written agreement to be established between the department and the School Board of the Governor Baxter School for the Deaf.

11. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters shall establish a review committee to review the new governance structure of the school. The review committee must include representatives from the Department of Education, the School Board of the Governor Baxter School for the Deaf, the Governor Baxter School for the Deaf staff, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters and other persons designated by the joint standing committee. The review committee shall begin its review by January 1, 1998 and present its findings to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs matters by December 15, 1998.

12. The review committee established in subsection 11 shall review the provision of administrative assistance by the Department of Education to the Governor Baxter School for the Deaf and make recommendations for the period beginning July 1, 1999.

Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

EDUCATION, DEPARTMENT OF

Governor Baxter School for the Deaf

Personal Services	\$7,150
All Other	3,250
Provides funds for the per diem and expenses of the members of the School Board	

of the Governor Baxter School
for the Deaf.

**DEPARTMENT OF
EDUCATION
TOTAL**

\$10,400

Sec. 13. Effective date. This Act, except for the portion of the section of this Act that enacts the Maine Revised Statutes, Title 20-A, section 7406, takes effect on January 1, 1997.

Effective January 1, 1997, unless otherwise indicated.

CHAPTER 677

H.P. 296 - L.D. 400

**An Act to Clarify the Laws Relating
to Gaming and Harness Racing**

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

Sec. 1. 8 MRSA §275-O, sub-§3, ¶¶C and D, as enacted by PL 1995, c. 403, §1, are amended to read:

C. Section 275-I, subsection 1, paragraph A; ~~and~~

D. Section 275-L, subsection 1; ~~and~~

Sec. 2. 8 MRSA §275-O, sub-§3, ¶E is enacted to read:

E. Section 275-J, subsection 1, paragraph A.

Sec. 3. 8 MRSA §275-O, sub-§5, as enacted by PL 1995, c. 403, §1, is repealed.

Sec. 4. 17 MRSA §314, first ¶, as amended by PL 1993, c. 45, §1, is further amended to read:

The Chief of the State Police may issue licenses to operate beano or bingo games on a monthly basis to any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans' organization that was in existence at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of that organization by duly authorized members. The Chief of the State Police may also issue a license to any auxiliary associated with an organization, department or association qualified for a license under this section if the auxiliary has been in existence at least 2 years before applying for a license and the games are sponsored, operated and conducted for the exclusive benefit of

the auxiliary by duly authorized members of the auxiliary. Proceeds from any game conducted by the auxiliary or the auxiliary's parent organization may not be used to provide salaries, wages or other remuneration to members, officers or employees of the auxiliary or its parent organization, except as provided in sections 326 and 335. The 2 years' limitation does not apply to any ~~chartered posts of veterans' organizations, nationally established, organizations in this State having a charter from a national organization, or auxiliaries of those posts organizations,~~ even though the ~~posts organizations~~ have not been in existence for 2 years prior to their application for a license ~~nor does the~~. The 2 years' limitation does not apply to any volunteer fire department or rescue unit or auxiliary of that department or unit. A license may be issued to an agricultural fair association when sponsored, operated and conducted for the benefit of such agricultural fair association.

See title page for effective date.

CHAPTER 678

H.P. 345 - L.D. 465

**An Act to Improve the Local Road
Assistance Program**

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

Sec. 1. 23 MRSA §1802-A, sub-§1, as enacted by PL 1989, c. 516, §2, is amended to read:

1. Average lane miles maintained. "Average lane miles maintained" means the sum of the number of lane miles of public road maintained by the municipality in the summer plus the number of lane miles of public road maintained in the winter, divided by 2.

Sec. 2. 23 MRSA §1802-A, sub-§2 is enacted to read:

2. Lane miles. "Lane miles" means a length of road measured in miles multiplied by the number of travel lanes for that length of road.

Sec. 3. 23 MRSA §1803-B, sub-§1, as enacted by PL 1989, c. 516, §4, is amended to read:

1. Distribution. Subject to the limitations set out in subsection 4, funds from the Local Road Assistance Program ~~shall~~ must be distributed to each municipality based on the average lane miles maintained by the municipality multiplied by an amount not less than ~~\$1,200~~ \$600.

Sec. 4. Funding. Any funds necessary for the implementation of this Act must be in addition to funds currently allocated to the Local Road Assistance Program.

Sec. 5. Date for payments under revised distribution formula. The State shall begin distribution to municipalities in accordance with the provisions of this Act with the quarterly payments due March 1, 1997. For fiscal year 1996-97, municipalities with roads in excess of 2 lanes will receive 1/2 of the annual increase resulting from the calculation for distribution using lane miles in accordance with this Act. The allocation in fiscal year 1996-97 is \$75,000, 1/2 the anticipated annual increase in distribution under the Local Road Assistance Program.

Sec. 6. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1996-97

TRANSPORTATION, DEPARTMENT OF

Local Road Assistance

All Other	\$75,000
Allocates additional funds to be distributed to municipalities for each mile of public road with more than 2 lanes pursuant to the funding formula of the Local Road Assistance Program.	

Sec. 7. Effective date. This Act takes effect on January 1, 1997.

Effective January 1, 1997.

CHAPTER 679

S.P. 323 - L.D. 904

An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs

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

Whereas, the use of intoxicating liquor or drugs while hunting or operating a snowmobile, ATV or watercraft is a threat to the public health and welfare; and

Whereas, existing penalties for those crimes are not sufficient; and

Whereas, the penalties established in this legislation must take effect prior to the summer recreational 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. 12 MRSA §7077, sub-§1-A, ¶B, as enacted by PL 1993, c. 136, §1, is amended to read:

B. Hunting while under the influence of ~~alcohol~~ intoxicating liquor or drugs, in violation of section 7406, subsection 3;

Sec. 2. 12 MRSA §7077-A, sub-§1-A is enacted to read:

1-A. Hunting while under the influence of intoxicating liquor or drugs. Notwithstanding any other provision of this Part, a person convicted of hunting while under the influence of intoxicating liquor or drugs in violation of section 7406, subsection 3 is not eligible to obtain a license to hunt in this State for a period of 5 years from the date of conviction.

Sec. 3. 12 MRSA §7406, sub-§3, as repealed and replaced by PL 1991, c. 443, §21, is amended to read:

3. Hunting while under the influence of intoxicating liquor or drugs. A person is guilty of a Class E crime commits the crime of hunting while under the influence of intoxicating liquor or drugs if that person hunts wild animals or wild birds:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Hunting while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 4. 12 MRSA §7408, as enacted by PL 1991, c. 443, §24, is amended to read:

§7408. Implied consent to chemical tests

Any person who hunts wild animals or wild birds within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person is hunting wild animals or wild birds while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete either a blood ~~or~~, breath or urine test, or any combination of those tests. Tests and procedures for determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 5. 12 MRSA §7801, sub-§9, as repealed and replaced by PL 1989, c. 599, §1, is amended to read:

9. Operating watercraft while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a criminal violation~~ commits the crime of operating a watercraft while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any watercraft:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating a watercraft while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 6. 12 MRSA §7827, sub-§9, as repealed and replaced by PL 1991, c. 443, §34, is amended to read:

9. Operating a snowmobile while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a Class E crime~~ commits the crime of operating a snowmobile while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any snowmobile:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating a snowmobile while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 7. 12 MRSA §7827, sub-§9-A, as enacted by PL 1991, c. 443, §35, is amended to read:

9-A. Failure to comply with duty to submit.

A person is guilty of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7828 if that person refuses to submit to or fails to complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person operated or attempted to operate a snowmobile while under the influence of intoxicating liquor or drugs.

Sec. 8. 12 MRSA §7828, as enacted by PL 1991, c. 443, §36, is amended to read:

§7828. Implied consent to chemical tests

Any person who operates or attempts to operate a snowmobile within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person has operated or attempted to operate a snowmobile while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete ~~either~~ a blood ~~or~~, breath or urine test or any combination of those tests. Tests and procedures applicable in determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 9. 12 MRSA §7857, sub-§10, as repealed and replaced by PL 1991, c. 443, §37, is amended to read:

10. Operating an ATV while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a Class E crime~~ commits the crime of operating an ATV while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any ATV:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating an ATV while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 10. 12 MRSA §7857, sub-§10-A, as enacted by PL 1991, c. 443, §38, is amended to read:

10-A. Failure to comply with duty to submit. A person is guilty of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7860 if that person refuses to submit to or fails to complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person operated or attempted to operate an ATV while under the influence of intoxicating liquor or drugs.

Sec. 11. 12 MRSA §7860, as enacted by PL 1991, c. 443, §39, is amended to read:

§7860. Implied consent to chemical tests

Any person who operates or attempts to operate an ATV ~~within~~ in this State has the duty to submit to a test to determine that person's blood-alcohol or drug concentration level by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person has operated or attempted to operate an ATV while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete ~~either~~ a blood ~~or~~, breath or urine test or any combination of those tests. Tests and procedures applicable in determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 12. 12 MRSA §7901, sub-§13, as corrected by RR 1991, c. 2, §39, is amended to read:

13. Penalties for hunting or attempting to hunt and operating or attempting to operate a watercraft, snowmobile or all-terrain vehicle while under the influence of intoxicating liquor or drugs. The ~~offense~~ offenses defined in section 7406, subsection 3; section 7801, subsection 9; is a; section 7827, subsection 9; and section 7857, subsection 10 are Class D ~~crime~~ crimes. In determining an appropriate sentence, refusal to submit to a chemical test ~~shall~~ must in every case be an aggravating factor. In the following cases the following minimum penalties ~~shall~~ apply.

A. Except as provided in paragraph B, in the case of a person having no previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$300. Beginning

July 1, 1990, the penalties provided in this paragraph may not be suspended.

B. In the case of a person having no previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$300 and the sentence ~~shall~~ must include a period of incarceration of not less than 48 hours, which penalties may not be suspended, when the person:

- (1) Was tested as having a blood-alcohol level of 0.15% or more;
- (2) Failed or refused to stop upon request or signal of an officer in uniform, as defined in section 6953 or 7060, during the operation ~~which that~~ which resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; or
- (3) Failed to submit to a chemical test to determine that person's blood-alcohol level or drug concentration, at the request of a law enforcement officer on the occasion ~~which that~~ which resulted in the conviction.

C. In the case of a person having one previous conviction of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 or one previous adjudication of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$500 and the sentence ~~shall~~ must include a period of incarceration of not less than 7 days, which penalties may not be suspended.

D. In the case of a person having 2 or more previous convictions of violations of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; and section 7857, subsection 10 or adjudications of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$750 and the sentence ~~shall~~ must include a period of incarceration of not less than 30 days, which penalties may not be suspended.

E. In addition to the penalties provided under paragraphs C and D, the court may order the

defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Human Services Office of Substance Abuse, as defined in Title 22 § 5, chapter ~~4602~~ 521.

F. The penalties provided under paragraphs B, C, D and, beginning July 1, 1990, paragraph A, ~~shall~~ may not be suspended by the court.

G. If the State pleads and proves that, while hunting or operating a snowmobile, ATV or watercraft in violation of this section, the ~~actor~~ defendant 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 sentencing class for the ~~offense~~ offenses in section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; and section 7857, subsection 10 are Class C ~~crime crimes~~. The minimum penalties specified in this subsection ~~shall~~ apply, ~~but the minimum period of suspension shall be 18 months unless a longer minimum period otherwise applies.~~

~~The~~ Any alternatives defined in section 7406, subsection 3; section 7801, subsection 9, paragraphs A and B; section 7827, subsection 9; and section 7857, subsection 10 may be pleaded in the alternative. The State may, but ~~shall~~ is not ~~be~~ required to, elect prior to submission to the fact finder.

For purposes of this subsection, a prior conviction has occurred within the 6-year period if the date of docket entry by the clerk of a judgment of conviction or adjudication is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.

In determining the appropriate sentence, the court shall consider the defendant's record of convictions for hunting or operating a snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs and for failure to comply with the duty to submit. The court may rely upon oral representations based on records maintained by the courts, by the State Bureau of Identification, by the Secretary of State, including telecommunications of records maintained by the Secretary of State, or by the Department of Inland Fisheries and Wildlife. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

References in this Title to this subsection are determined also to refer to the juvenile crime stated in Title 15, section 3103, subsection 1, paragraph E and to the disposition, including a suspension, for that

juvenile crime as provided in Title 15, section 3314, subsection 3, except as otherwise provided or ~~except~~ when the context clearly requires otherwise.

Sec. 13. 12 MRSA §7912, sub-§§2, 4, 5, 7 and 10 to 12, as amended by PL 1991, c. 443, §42, are further amended to read:

2. Prerequisites to tests. Before any test is given, the law enforcement officer shall inform the person to be tested ~~that, if that of the consequences of refusing to comply with the test.~~ If the person fails to comply with the duty to submit to and complete a ~~blood alcohol test to determine the level of blood alcohol~~ the requested chemical tests at the direction of the law enforcement officer, that person is committing a civil violation for which the person may be required to pay a civil forfeiture of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to a ~~blood alcohol~~ chemical test is admissible in evidence against that person at any trial for hunting or operating under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

~~No test~~ Test results may not be excluded as evidence in any proceeding before any administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

4. Blood-alcohol level. The following percentages by weight of alcohol in the defendant's blood have the following evidentiary effect.

A. If there was, at the time alleged, 0.05% or less by weight of alcohol in the ~~defendant's blood~~ of a defendant who was 21 years of age or older at the time of arrest, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If there was, at the time alleged, in excess of 0.05% but less than 0.08% by weight of alcohol in the ~~defendant's blood~~ of a defendant who was 21 years of age or older at the time of the arrest, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection

10, it is presumed that a person was under the influence of intoxicating liquor when that person has ~~a blood-alcohol level of 0.08% or more by weight;~~

(1) For a person 21 years of age or older, a blood-alcohol level of 0.08% or more by weight; and

(2) For a person less than 21 years of age, any amount of alcohol in the blood.

D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.

5. Administration of tests. Persons conducting analyses of blood ~~or~~ breath or urine for the purpose of determining the blood-alcohol level or drug concentration must be certified for ~~this~~ each purpose by the Department of Human Services under certification standards set by that department.

Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the blood-alcohol level or drug concentration of a person who is complying with the duty to submit to a ~~blood-alcohol~~ chemical test. This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the blood-alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood ~~to determine the blood-alcohol level for chemical testing~~, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a ~~blood-alcohol~~ chemical test. The sample specimen must be submitted to the Department of Human Services or a person certified by the Department of

Human Services for the purpose of conducting chemical tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample.

Only equipment approved by the Department of Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe hunted wild birds or wild animals or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Human Services. The result of any such test must be accepted as prima facie evidence of the blood-alcohol level in any court.

Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of blood-alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the

Department of Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

7. Evidence. The percentage by weight of alcohol in the defendant's blood at the time alleged and the concentration of drugs at the time alleged, as shown by the chemical analysis of the defendant's blood ~~or~~ breath or urine or by results of a self-contained, breath-alcohol testing apparatus any test authorized by subsection 5 is admissible in evidence.

When a person, certified under subsection 5, conducts a chemical analysis of blood ~~or~~ breath or urine to determine blood-alcohol level or drug concentration, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results; that any equipment, chemicals or materials required by subsection 5 to be approved by the Department of Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration or percentage by weight of alcohol in the defendant's blood was, at the time the blood ~~or~~ breath or urine sample was taken, as stated in the certificate, unless with 10 days' written notice to the prosecution, the defendant requests that a qualified witness testify as to any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the percentage by weight of alcohol in the defendant's blood was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

Transfer of sample specimens to and from a laboratory for purposes of analysis is by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

The failure of a person to comply with the duty to submit to and complete a blood-alcohol chemical test under section 7408, ~~7802~~ 7805, 7828 or 7860 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a blood-alcohol chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a blood-alcohol chemical test is not admitted into evidence, the court may inform the jury of the fact that no test result is available.

If a test result is not available for a reason other than failing to comply with the duty to submit to and complete a blood-alcohol chemical test, the unavailability and the reason are admissible in evidence.

10. Accidents and officer's duties. The law enforcement officer has the following duties.

A. After a person has been charged with hunting wild animals or wild birds or with operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 or adjudications for failure to comply with the duty to submit to and complete a blood-alcohol chemical test under section 7408, ~~7802~~ 7805, 7828 or 7860. As part of that investigation, the officer shall review the records maintained by the courts, the State Bureau of Identification, the Secretary of State, including telecommunications of records maintained by the Secretary of State, or the Department of Inland Fisheries and Wildlife.

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe hunted any wild animal or wild bird or operated or attempted to operate a watercraft, snowmobile or ATV while

under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence ~~of blood-alcohol level that the person was under the influence of intoxicating liquor or drugs.~~

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that results in the death of any person must submit to and complete ~~a test~~ chemical tests to determine that person's blood-alcohol level or other chemical use by analysis of blood or breath or urine. A law enforcement officer may determine which ~~type of test~~ types of tests will be administered. The ~~result of a test~~ results of tests taken pursuant to this subsection ~~is~~ are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test ~~result~~ results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive blood-alcohol level.

12. Aid in enforcement among municipalities. Except as otherwise prohibited by municipal charter or ordinance, municipalities may, in the manner provided by Title 30-A, section 2674, enter into agreements regarding mutual aid in enforcing laws governing the hunting of wild animals or wild birds while under the influence of intoxicating liquor or drugs or the operation of a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

Sec. 14. 12 MRSA §7912, sub-§13 is enacted to read:

13. Reporting; immunity. Immunity from certain criminal and civil liabilities for the act of good faith reporting by certain health care professionals on accidents that the reporting person reasonably believes involved a person who was hunting or operating a snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs is set forth in Title 29-A, section 2405.

Sec. 15. 15 MRSA §3103, sub-§1, ¶E, as amended by PL 1989, c. 599, §6, is further amended to read:

E. Offenses involving hunting or the operation or attempted operation of a watercraft, ATV or snowmobile while under the influence of intoxicating liquor or drugs, as defined in Title 12, section 7406, subsection 3; Title 12, section 7801, subsection 9, and; Title 12, section 7827, subsection 9; and Title 12, section 7857, subsection 10, respectively, and offenses involving failing to aid an injured person or to

report a hunting accident as defined in Title 12, section 7406, subsection 15; and

Sec. 16. 29-A MRSA §2405, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Persons who may report. If, while acting in a professional capacity, a medical or osteopathic physician, resident, intern, emergency medical services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant or registered or licensed practical nurse knows or has reasonable cause to believe that a person has been operating a motor vehicle, hunting or operating a snowmobile, all-terrain vehicle or watercraft while under the influence of intoxicants and that motor vehicle, snowmobile, all-terrain vehicle or watercraft or a hunter has been involved in an accident, that person may report those facts to a law enforcement official.

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

Effective April 11, 1996.

CHAPTER 680

S.P. 551 - L.D. 1510

An Act to Make Comprehensive Changes to the Sex Offender 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. 15 MRSA §812, sub-§2, as enacted by PL 1981, c. 685, is amended to read:

2. Notification to victims and law enforcement officers. Before submitting a negotiated plea to the court, the attorney for the State shall advise the ~~victim or victims, if available, and the~~ relevant law enforcement officers of the details of the plea agreement reached in any prosecution where the defendant was originally charged with murder, a Class A, B or C crime or a violation of Title 17-A, chapter 9,

11 or 13 and shall advise victims of their rights under Title 17-A, section 1173.

Sec. 2. 15 MRSA §6101, as enacted by PL 1993, c. 675, Pt. A, §3, is amended to read:

§6101. Victim involvement in criminal proceedings

1. Notice to victims. Whenever practicable, ~~prosecutors~~ the attorney for the State shall make a good faith effort to inform the victims and families of victims of crimes of domestic violence and sexual assault and crimes in which the victim or the victim's family suffered serious physical trauma or serious financial loss of:

A. The victim advocate and ~~victim compensation programs~~ the victims' compensation fund pursuant to Title 5, chapter 316-A;

B. The victim's right to be advised of the existence of a negotiated plea agreement before that agreement is submitted to the court pursuant to ~~section 812~~ Title 17-A, section 1173;

C. The time and place of the trial, if one is to be held;

D. The victim's right to make a statement or submit a written statement at the time of sentencing pursuant to Title 17-A, section ~~4257, 1174~~ upon conviction of the ~~person committing the crime~~ defendant; and

E. The final disposition of the charges against that defendant.

2. Notice to court. Whenever practicable, the ~~prosecutor~~ attorney for the State shall make a good faith effort to inform the court about the following:

A. If there is a plea agreement, the victim's or the victim's family's position on the plea agreement; ~~and or~~

B. If there is no plea agreement, the victim's or the victim's family's position on sentencing.

Sec. 3. 17-A MRSA §15, as amended by PL 1995, c. 356, §20, is repealed and the following enacted in its place:

§15. Warrantless arrests by a law enforcement officer

1. Except as otherwise specifically provided, a law enforcement officer may arrest without a warrant:

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 \$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 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, 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;

(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; or

(14) A violation of a sex offender registration provision under Title 34-A, chapter 11 or 13; and

B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime.

2. For the purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime. An arrest made pursuant to subsection 1, paragraph B must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit.

Sec. 4. 17-A MRSA §1152, sub-§2-C is enacted to read:

2-C. As part of a sentence, the court shall order every natural person who is a convicted sex offender, as defined under Title 34-A, section 11103 to satisfy all requirements set forth in the Sex Offender Registration and Notification Act.

Sec. 5. 17-A MRSA c. 48 is enacted to read:

CHAPTER 48

VICTIMS' RIGHTS

§1171. Definitions

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

1. **Crime.** "Crime" means a criminal offense in which, as defined, there is a victim.

2. **Victim.** "Victim" means:

A. A person who is the victim of a crime; and

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

§1172. Victims to be notified

1. When practicable, the attorney for the State shall make a good faith effort to inform each victim of a crime of the following:

A. The details of a plea agreement before it is submitted to the court;

B. The right to comment on the plea agreement pursuant to section 1173;

C. The time and place of the trial;

D. The time and place of sentencing; and

E. The right to participate at sentencing pursuant to section 1174.

2. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101.

§1173. Plea agreement procedure

When a plea agreement is submitted to the court pursuant to the Maine Rules of Criminal Procedure, Rule 11A (b), the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by a victim. A victim who is present in court at the submission of the plea may address the court at that time.

§1174. Sentencing procedure

1. The victim must be provided the opportunity to participate at sentencing by:

A. Making an oral statement in open court; or

B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record.

2. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence.

3. Unlike victims defined under section 1171, family members not within that definition, close friends of the victim, community members and other interested persons do not have a right to participate at sentencing. Participation by such interested persons is a matter for the court's discretion in determining what information to consider when sentencing.

§1175. Notification of defendant's release

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime for which the defendant is committed to the Department of Corrections or to a county jail, or a victim of a crime of gross sexual assault who had not in fact attained 16 years of age at the time of the crime for which the defendant is found not criminally

responsible by reason of mental disease or defect and is placed in institutional confinement under Title 15, section 103, must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program or release under Title 15, section 104-A.

1. A victim who wishes to receive notification must file a request for notification of the defendant's release with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections, to the state mental health institute or to the county jail to which that defendant is committed.

2. The Department of Corrections, the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request in the file of the defendant and shall notify the victim by mail of any impending release as soon as the release date is set. This notice must be mailed to the address provided in the request or any subsequent address provided by the victim.

3. The notice required by this section must contain:

A. The name of the defendant;

B. The nature of the release authorized, whether it is a conditional release, including probation, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or a similar program or release under Title 15, section 104-A, or an unconditional release and discharge upon the expiration of a sentence or upon discharge under Title 15, section 104-A;

C. The anticipated date of the defendant's release from institutional confinement and any date on which the defendant must return to institutional confinement, if applicable;

D. The geographic area to which the defendant's release is limited, if any;

E. The address at which the defendant will reside; and

F. The address at which the defendant will work, if applicable.

4. The notice requirement under this section ends when:

A. Notice has been provided of an unconditional release or discharge upon the expiration of the sentence or upon discharge under Title 15, section 104-A; or

B. The victim has filed a written request with the Department of Corrections, the state mental health institute or the county jail to which the defendant is committed asking that no further notice be given.

5. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Mental Health and Mental Retardation, the state mental health institute or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Mental Health and Mental Retardation, the state mental health institute or the county jail to liability in a civil action.

Sec. 6. 17-A MRSA §1204, sub-§1-C is enacted to read:

1-C. The court shall attach as a condition of probation that the convicted sex offender, as defined under Title 34-A, section 11103, satisfy all responsibilities set forth in the Sex Offender Registration and Notification Act.

Sec. 7. 17-A MRSA §1257, sub-§1, as enacted by PL 1983, c. 352, §2, is amended to read:

1. In any case where a defendant has been convicted of ~~any~~ a crime either upon ~~his~~ the defendant's plea or after trial, the ~~prosecutor shall have~~ attorney for the State has the right to be heard at the time of sentence. The ~~prosecutor~~ attorney for the State may recommend a specific sentence or other disposition. The court shall consider any statements made by the attorney for the State, along with all other appropriate factors, in determining the sentence.

Sec. 8. 17-A MRSA §1257, sub-§2, as enacted by PL 1983, c. 352, §2, is repealed and the following enacted in its place:

2. A victim has the right to participate in the sentencing process pursuant to section 1174 and to receive notification of a defendant's release pursuant to section 1175.

Sec. 9. 17-A MRSA §1257, sub-§3, as enacted by PL 1983, c. 352, §2, is repealed.

Sec. 10. 17-A MRSA §1257-A, as amended by PL 1995, c. 164, §1, is repealed.

Sec. 11. 34-A MRSA §11001-A is enacted to read:

§11001-A. Application

This chapter applies to sex offenders sentenced on or after June 30, 1992 and before September 1, 1996.

Sec. 12. 34-A MRSA §11005 is enacted to read:

§11005. Liability

Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the commissioner, the department, the Commissioner of Public Safety, the Department of Public Safety, the county jail or any other law enforcement agency or the employees or officers of the commissioner, the department, the Commissioner of Public Safety, the Department of Public Safety, the county jail or any other law enforcement agency to liability in a civil action.

Sec. 13. 34-A MRSA c. 13 is enacted to read:

CHAPTER 13**SEX OFFENDER REGISTRATION AND NOTIFICATION ACT****SUBCHAPTER I****GENERAL PROVISIONS****§11101. Short title**

This chapter may be known and cited as the "Sex Offender Registration and Notification Act." The purpose of this chapter is to protect the public safety by enhancing access to information concerning sex offenders.

§11102. Application

This chapter applies to all sex offenders sentenced or placed in institutional confinement under Title 15, section 103 on or after September 1, 1996.

§11103. Definitions

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

1. Conditional release. "Conditional release" means supervised release of a sex offender from institutional confinement for placement on probation, parole, intensive supervision, supervised community confinement, home release monitoring or release under Title 15, section 104-A.

2. Discharge. "Discharge" means unconditional release and discharge of a sex offender from institu-

tional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

3. Law enforcement agency. "Law enforcement agency" means the State Police, a municipal police department or a county sheriff's department.

4. Risk assessment instrument. "Risk assessment instrument" means an instrument created and modified as necessary by reviewing and analyzing precursors to a sex offense, victim populations of a sex offender, living conditions and environment of a sex offender and other factors predisposing a person to become a sex offender or to become a repeat sex offender, used for the ongoing purpose of identifying risk factors used to provide notification of a sex offender's conditional release or discharge from a state correctional facility to law enforcement agencies and to the public.

5. Sex offender. "Sex offender" means an individual convicted of gross sexual assault if the victim had not in fact attained 16 years of age at the time of the crime or an individual found not criminally responsible for committing gross sexual assault by reason of mental disease or defect if the victim had not in fact attained 16 years of age at the time of the crime.

§11104. Access to records

Sex offender registration information under section 11142, subsection 1 in the possession or custody of the Department of Public Safety, State Bureau of Identification or any other criminal justice agency is criminal history record information, and its dissemination is governed by Title 16, chapter 3, subchapter VIII.

§11105. Liability

Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the commissioner, the department, the Commissioner of Public Safety, the Department of Public Safety, the county jail, any other law enforcement agency or the Commissioner of Mental Health and Mental Retardation or a state mental health institute or the employees or officers of the commissioner, the department, the Commissioner of Public Safety, the Department of Public Safety, the county jail, any other law enforcement agency, the Commissioner of Mental Health and Mental Retardation or the state mental health institute to liability in a civil action.

SUBCHAPTER II**SEX OFFENDER REGISTRATION**

§11121. Registration of sex offenders

1. Notice of duty to register. The department, the state mental health institute or the county jail that has custody of a sex offender required to register under this subchapter shall inform the sex offender, prior to discharge or conditional release, of the duty to register. If no period of institutional confinement is to be served, the court shall inform the sex offender at the time of sentencing of the duty to register under this subchapter.

2. Duty to register. At least 15 days before discharge or conditional release from a state correctional facility, a state mental health institute or a county jail, a sex offender shall register that person's intended address after conditional release or discharge with the Department of Public Safety, State Bureau of Identification or, if no period of institutional confinement is to be served, a sex offender shall register that person's intended address within 5 calendar days of sentencing.

This registration requirement remains in effect for 15 years from the date of:

A. Sentencing if no period of institutional confinement is to be served; or

B. Discharge or conditional release from a state correctional facility, a state mental health institute or a county jail.

If a sex offender on conditional release violates a condition of that release and is returned to institutional confinement, the sex offender's duty to register terminates. The registration requirement begins again and remains in effect for 15 years from the date of the sex offender's new conditional release or discharge.

3. Change of address. If a sex offender required to register under this subchapter changes address, that person shall register the new address with the Department of Public Safety, State Bureau of Identification at least 5 days before moving to the new address.

4. When address unknown. If a sex offender required to register under this subchapter does not have an intended address in time to comply with the notification requirements in subsections 2 and 3, the sex offender shall provide, at the time of registration, to the Department of Public Safety, State Bureau of Identification the intended municipality of residence and shall provide an address as soon as it becomes known.

5. Duties of the State Bureau of Identification. Upon receiving notice of a sex offender's conditional release or discharge and the sex offender's address or change in address, the Department of Public Safety,

State Bureau of Identification shall notify all law enforcement agencies having jurisdiction in the municipality where a sex offender registers an address.

6. Waiver of registration. Registration may be waived only if:

A. The conviction is vacated;

B. A full and free pardon is granted;

C. The Superior Court, upon the petition of the sex offender, waives the registration requirement.

A sex offender may not petition for waiver of the registration requirement until at least 5 years after the sex offender is first required to register.

A sex offender may petition once a year for waiver of the registration requirement.

Before waiving the registration requirement, the court must determine that the sex offender has shown a reasonable likelihood that registration is no longer necessary and waiver of the registration requirement is appropriate. The court shall consider the sex offender's progress in treatment and may request an independent forensic evaluation provided through the State Forensic Service. If the court orders an independent forensic evaluation, the court shall reimburse the State Forensic Service for the cost of the evaluation and order the sex offender to reimburse the court for the cost of the evaluation; or

D. The sentencing court, for good cause shown, waives the registration requirement.

7. Violation. A sex offender who fails to register or update the information required under this section commits a Class D crime, except that a violation of this section when the sex offender has 2 or more prior Maine convictions for violations of this section or 2 or more prior Maine convictions for violations of section 11003 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 10 years, although both prior convictions may have occurred on the same day. The date of the conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of a prior 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. It is an affirmative defense that the failure to register or update information resulted from just cause.

SUBCHAPTER III**NOTIFICATION****§11141. Risk assessment**

The department shall establish and apply a risk assessment instrument to each sex offender under its jurisdiction for the purpose of notification to law enforcement agencies and to the public.

§11142. Mandatory notification of conditional release or discharge of sex offenders

The department and the Department of Public Safety, State Bureau of Identification are governed by the following notice provisions when a sex offender is conditionally released or discharged.

1. Duties of the department. The department shall give the Department of Public Safety, State Bureau of Identification notice of the following:

A. The address where the sex offender will reside;

B. The address where the sex offender will work, if applicable;

C. The geographic area to which a sex offender's conditional release is limited, if any; and

D. The status of the sex offender when released as determined by the risk assessment instrument.

2. Duties of the Department of Public Safety, State Bureau of Identification. Upon receipt of the information concerning the conditional release or discharge of a sex offender pursuant to subsection 1, the Department of Public Safety, State Bureau of Identification shall forward the information in subsection 1 to all law enforcement agencies that have jurisdiction in those areas where the sex offender may reside or work.

§11143. Public notification

1. Department. Upon the conditional release or discharge of a sex offender from a state correctional institution, the department shall give notice of the information under section 11142, subsection 1 to members of the public who the department determines appropriate to ensure public safety.

2. Law enforcement agencies. Upon receipt of the information concerning the conditional release or discharge of a sex offender pursuant to section 11142, subsection 2, a law enforcement agency shall notify members of that municipality who the law enforcement agency determines appropriate to ensure public safety.

§11144. Risk assessment assistance

Upon request, the department shall provide to law enforcement agencies technical assistance concerning risk assessment for purposes of notification to the public of a sex offender's conditional release or discharge.

Sec. 14. Report. The Department of Corrections shall report its findings and recommendations regarding the implementation and application of the risk assessment and relapse prevention program for sex offenders, including the department's work assisting law enforcement agencies with risk assessment for the purpose of public notification, to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 1, 1998.

Sec. 15. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1996-97

**CORRECTIONS,
DEPARTMENT OF****Correctional Services**

All Other	\$200,000
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Provides for the allocation of funds to provide relapse prevention training and sex offender treatment services to Department of Corrections' clients.

See title page for effective date.

CHAPTER 681**H.P. 918 - L.D. 1294****An Act to Prohibit Home Repair Fraud**

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

Sec. 1. 17-A MRSA §908 is enacted to read:

§908. Home repair fraud

1. A home repair seller is guilty of home repair fraud if that seller knowingly enters into an agreement or contract, written or oral, with any person for home repair services and the seller, at the time of entering into that agreement or contract:

A. Intentionally misrepresents a material fact relating to the terms of the agreement or contract or misrepresents a preexisting or existing condition of any portion of the property that is the subject of the home repair services;

B. Intentionally creates or reinforces an impression relating to the terms of the agreement or contract that is false and that the seller does not believe to be true or fails to correct such an impression that the seller had previously created or reinforced;

C. Intentionally promises performance under the terms of the agreement or contract that the seller does not intend to perform or that the seller knows will not be performed;

D. Intentionally uses or employs deception, false pretense or false promise in securing the agreement or contract; or

E. Knows that the property that is the subject of the home repair services was previously damaged or destroyed by the seller with the intent to obtain the agreement or contract.

2. In a prosecution under subsection 1, paragraph A, whether a fact relating to the terms of the agreement or contract is material is a question of law to be determined by the court.

3. As used in this section, unless otherwise indicated, the following terms have the following meanings.

A. "Home repair services" means fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence. "Home repair services" includes the construction, installation, replacement, improvement and cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fall-out shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings and other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming.

B. "Home repair seller" or "seller" means a person, partnership, corporation, business, trust or other legal entity that sells or provides home repair services.

C. "Residence" means a single-family or multi-family dwelling, including a single-family home, apartment building, condominium, duplex or

townhouse that is used or intended to be used by its occupants as a dwelling place.

4. Home repair fraud is a Class D crime, except that 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 10 years, although both prior convictions may have occurred on the same day. Home repair fraud is not a Class C crime if the commission of the 2 prior offenses occurred within a 3-day period. The date of the conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of a prior 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. 2. 32 MRSA §4667, as amended by PL 1987, c. 202, §3, is repealed and the following enacted in its place:

§4667. Criminal penalties

A violation of section 4662, section 4664-A or section 4666 is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 4662, section 4664-A or section 4666 is a Class D crime if the State pleads and proves that the act or omission was intentional.

Sec. 3. 32 MRSA §4682-A, sub-§3, as amended by PL 1991, c. 714, §11, is repealed.

Sec. 4. 32 MRSA §4688, as amended by PL 1985, c. 763, Pt. A, §94, is repealed and the following enacted in its place:

§4688. Violations and penalties

1. Criminal penalty. Violation of section 4682, section 4682-A, subsection 2 or section 4682-B is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 4682, section 4682-A, subsection 2 or section 4682-B is a Class D crime if the State pleads and proves that the act or omission was intentional.

2. Unfair trade practice. A person who fails to comply with this chapter commits a violation of Title 5, chapter 10.

Sec. 5. 32 MRSA §14512, sub-§1, as enacted by PL 1993, c. 444, §1, is repealed and the following enacted in its place:

1. Criminal penalty. Violation of section 14504 or section 14506 is a Class E crime for which the State need not plead or prove a culpable state of mind, except that a violation of section 14504 or

14506 is a Class D crime if the State pleads and proves that the act or omission was intentional.

See title page for effective date.

CHAPTER 682

S.P. 613 - L.D. 1617

An Act to Establish the Penobscot County Budget Committee

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

Sec. 1. 30-A MRSA c. 3, sub-c. I, art. 14 is enacted to read:

ARTICLE 14

PENOBSCOT COUNTY BUDGET COMMITTEE

§900-F. Definitions

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

1. **Budget committee.** "Budget committee" means the Penobscot County Budget Committee.

2. **Municipal officials.** "Municipal officials" means any elected member of a municipal government in Penobscot County.

§900-G. Budget; appropriations and approval

Notwithstanding sections 2, 701 and 702, in Penobscot County the county commissioners may appropriate money, according to a budget that must be prepared and finalized in accordance with this article.

§900-H. Budget committee

There is established the Penobscot County Budget Committee to carry out the purposes of this article.

1. **Membership.** The budget committee consists of 15 members as follows:

A. Three members elected from each commissioner district as provided in subsection 2;

B. One municipal official appointed by each county commissioner from the commissioner's district; and

C. Three members of the county legislative delegation selected by the delegation.

2. **Municipal official elections.** Before September 30th of every year, the county commissioners shall notify all municipal officials to caucus by county commissioner district at a specified date, time and place for the purpose of electing 3 municipal officials from each district as members of the county budget committee. Each county commissioner shall serve as nonvoting moderator for that district caucus. Nominations must be received from the floor. The 3 nominees receiving the most votes are the budget advisory committee members. The names of those elected by the caucus must be recorded and forwarded to the county commissioners.

3. **Term; vacancy; replacement.** Budget committee members serve 2-year terms. If a budget advisory committee member ceases to be a municipal official during the term of membership, the committee member vacates membership and a replacement must be appointed by the county commissioner from the district in which the vacancy occurred.

§900-I. Budget process

1. **Public hearing.** The Penobscot County commissioners shall hold one or more public hearings on the budget at times convenient for the residents of the county and before November 1st of each year.

2. **Budget; submission to budget committee.** The Penobscot County commissioners shall submit a budget for the coming year to the budget committee no later than November 1st of each year. The budget committee shall review the budget and make additions or deletions to the budget by a majority vote of the committee. The budget must be presented to the county commissioners by December 1st of each year. The county commissioners shall act on the budget no later than December 15th of the year preceding the budget year. If the adopted budget is changed by the county commissioners, the budget committee may reject that change by a 2/3 vote of its membership no later than December 31st of that year. Those actions are final and not subject to further action by either the county commissioners or the budget committee.

3. **Budget presentation to legislative delegation.** Before December 15th annually, the county commissioners, in conjunction with the budget committee, shall present the proposed budget to the Penobscot County legislative delegation at a meeting called by the chair of the legislative delegation for that purpose. Copies of the proposed budget must be submitted to the chair of the legislative delegation at least 7 days prior to the meeting.

4. **Assessment of taxes.** The budget adopted under subsection 2 is the final authorization for the assessment of county taxes. The county tax authorized is apportioned and collected in accordance with section 706.

5. Final budget; filing. A copy of the final budget must be filed on forms approved by the Department of Audit with the State Auditor, who shall retain them for 3 years.

6. Interim budget. If the budget is not approved before the start of the fiscal year, the county must operate on an interim budget that does not exceed the budget of the previous year until a final budget is adopted.

§900-J. Repeal

This article is repealed December 31, 1999.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

State Mandates

All Other \$1,000

Appropriates funds for 90% of the additional local costs associated with the Penobscot County Budget Committee including additional advertising, postage and printing costs. The Commissioner of Administrative and Financial Services shall distribute these funds pursuant to the Maine Revised Statutes, Title 30-A, section 5685. Amounts not required to fund 90% of the local costs associated with this Act must lapse to the General Fund.

See title page for effective date.

CHAPTER 683

H.P. 1240 - L.D. 1700

An Act to Allow the Removal from Public Office of Certain Elected County Officials

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

Sec. 1. 4 MRSA §301, first ¶, as amended by PL 1995, c. 245, §1, is further amended to read:

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 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 caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason 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.

Sec. 2. 18-A MRSA §1-501, first ¶, as amended by PL 1995, c. 245, §2, is further amended to read:

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 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 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 the treasurer's office. Vacancies caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason 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.

Sec. 3. 30-A MRSA §1, sub-§2-A is enacted to read:

2-A. Permanent incapacity. "Permanent incapacity" means a guardian or conservator has been appointed by a court of competent jurisdiction to manage the affairs of an office holder.

Sec. 4. 30-A MRSA §63, first ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

When no choice is effected or a vacancy happens in the office of county commissioner by death, resignation, removal from the county, permanent incapacity or for any other reason, the Governor shall appoint a person to fill the vacancy. That person shall hold office until the first day of January following the next biennial election at which a person ~~shall be~~ is elected to fill the office.

Sec. 5. 30-A MRSA §151, sub-§3, as amended by PL 1995, c. 245, §4, is further amended to read:

3. Vacancy. If a person chosen treasurer as provided in subsection 1 declines to accept or a vacancy occurs by reason of death, resignation, removal from the county, permanent incapacity or for any other reason, 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 is treasurer until the first day of January following the next biennial election, at which election a treasurer must be chosen for the remainder of the term, if any; but, in any event, that person 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. 6. 30-A MRSA §371, as repealed by PL 1995, c. 156, §1 and as amended by c. 245, §6, is repealed.

Sec. 7. 30-A MRSA §371-A, as enacted by PL 1995, c. 156, §2, is repealed.

Sec. 8. 33 MRSA §601, 2nd ¶, as amended by PL 1989, c. 502, Pt. B, §40, is further amended to read:

Vacancies ~~shall~~ caused by death, resignation, removal from the county, permanent incapacity as defined in Title 30-A, section 1, subsection 2-A or any other reason must be filled for the unexpired term by election as provided for in section 602 at the next general election, as defined in Title 21-A, section 1, subsection 19, after their occurrence. In the meantime, the Governor may fill vacancies by appointment, and the person so appointed shall hold office until the first day of January next after the election. Until a vacancy is filled by appointment by the Governor, the deputy register ~~shall serve~~ serves as acting register as provided in section 605.

See title page for effective date.

CHAPTER 684

S.P. 660 - L.D. 1720

An Act to Allow the Adjutant General to Sell Unfit and Unneeded Property and Apply Proceeds to the Military Bureau's Capital Repair Account, to Authorize the Adjutant General to Transfer Real Property, and to Authorize the Military Bureau to Retain the Proceeds of Armory Rentals

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

Sec. 1. 37-B MRSA §3, sub-§1, ¶D, as amended by PL 1983, c. 594, §2, is further amended to read:

D. Have the following powers and duties.

- (1) ~~He~~ The Adjutant General shall administer the department subordinate only to the Governor.
- (2) ~~He~~ The Adjutant General shall establish methods of administration consistent with the law necessary for the efficient operation of the department.
- (3) ~~He~~ The Adjutant General may prepare a budget for the department.

(4) ~~He~~ The Adjutant General may transfer personnel from one bureau to another within the department.

(5) ~~He~~ The Adjutant General shall supervise the preparation of all state informational reports required by the federal military establishment.

(6) ~~He~~ The Adjutant General shall keep an accurate account of expenses incurred and, in accordance with Title 5, sections 43 to 46, make a full report to the Governor as to the condition of the military forces, and as to all business transactions of the Military Bureau, including detailed statements of expenditures for military purposes.

(7) ~~He shall be~~ The Adjutant General is responsible for the custody, care and repair of all military property belonging to or issued to the State for the military forces and shall dispose of military property belonging to the State ~~which that~~ is unserviceable. ~~He~~ The Adjutant General shall account for and deposit the proceeds from that disposal with the Treasurer of State who shall credit them to the ~~General Fund~~ Construction and Capital Repair Account of the Military Bureau.

(8) ~~He~~ The Adjutant General may sell for cash to officers of the state military forces, for their official use, and to organizations of the state military forces, any military or naval property ~~which that~~ is the property of the State. ~~He~~ The Adjutant General shall, with ~~his~~ an annual report, render to the Governor an accurate account of the sales and ~~shall~~ deposit the proceeds of the sales with the Treasurer of State who shall credit them to the General Fund.

(9) ~~He~~ The Adjutant General shall represent the state military forces for the purpose of establishing the relationship between the federal military establishment and the various State military staff departments.

(10) ~~He~~ The Adjutant General shall accept, receive and administer federal funds for and on behalf of the State ~~which that~~ are available for military purposes or ~~which that~~ would further the intent and specific purposes of this chapter and chapter 3.

(11) ~~He~~ The Adjutant General shall acquire, construct, operate and maintain military facilities necessary to comply with this Title and Title 32 of the United States Code and shall operate and maintain facilities

now within or hereafter coming within the jurisdiction of the Military Bureau.

(12) ~~He~~ The Adjutant General may adopt rules pertaining to compliance with state and federal contracting requirements, subject to the Maine Administrative Procedure Act, ~~title~~ Title 5, chapter 375. Those rules ~~shall~~ must provide for approval of contracts by the appropriate state agency.

Sec. 2. 37-B MRSA §§152 to 154 are enacted to read:

§152. Armory Rental Fund; authority to rent armories

1. Fund established. The Armory Rental Fund is established in the Military Bureau as a nonlapsing fund to assist in defraying the operation and maintenance expenses of the Military Bureau's state-owned facilities. Funds in the Armory Rental Fund are in addition to appropriations for these purposes made to the Military Fund.

2. Rental proceeds. Rental proceeds from the rental of armories under this section must be paid into the State Treasury and credited to the Armory Rental Fund to be used for operation and maintenance expenses at the various state-owned facilities of the Military Bureau. Rental proceeds credited to the Armory Rental Fund are in addition to the appropriations made for operation and maintenance expenses included for that purpose in the Military Fund.

§153. Authority to rent armories

The Military Bureau may rent armories for activities that do not conflict with the military training mission.

§154. Capital Repair Account

The Capital Repair Account is established in the Military Bureau as a nonlapsing fund to assist in defraying the capital repair of state-owned properties of the Military Bureau. The bureau may not spend \$300,000 or more for any single capital repair project unless that expenditure is approved in advance by the Legislature. Not later than January 1st of each odd-numbered year, the bureau shall submit a list to the Legislature that identifies the location, nature and cost of each planned capital repair project costing less than \$300,000.

Sec. 3. 37-B MRSA §264, as enacted by PL 1983, c. 460, §3, is repealed and the following enacted in its place:

§264. Inspection and condemnation

1996-97

1. Sale of property; proceeds. The Adjutant General shall designate an officer to inspect military property, real and personal, and may condemn any inspected property that the Adjutant General determines to be unfit for use by the military. Property condemned under this subsection may be sold by the Adjutant General. Real property condemned under this subsection may not be sold for less than its appraised value as determined by a person licensed as a real estate appraiser under Title 32, chapter 123.

All proceeds from the sale of condemned property must be paid into the State Treasury and credited to the Capital Repair Account of the Military Bureau established under section 154.

2. Designation of property; sale. The Adjutant General may sell an armory or other real property of the Military Bureau if the Adjutant General has:

A. Completed the appraisal required under subsection 1; and

B. Except as provided in subsection 3, obtained approval of the Legislature to sell that armory or other real property. For the purposes of this subsection, the term "approval of the Legislature" means the enactment by the Legislature and signing by the Governor of a resolve authorizing the sale of that armory or other real property.

All proceeds of the sale of an armory or other real property under this subsection must be paid into the State Treasury and credited to the Capital Repair Account of the Military Bureau established under section 154.

3. Exceptions; authorization to sell. Notwithstanding subsection 2, paragraph B, the Adjutant General is authorized to sell the following armories:

A. The Brunswick Armory;

B. The Newport Armory;

C. The Rumford Armory;

D. The Sanford Armory; and

E. The South Portland Armory.

4. Easements and rights-of-way. Notwithstanding subsection 2, the Adjutant General may, with written approval of the Governor, grant easements and rights-of-way on real property held by the Military Bureau.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF

Capital Repair Account

Capital Expenditures	\$500,000
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Provides authorization to make expenditures from the Capital Repair Account to undertake capital repair projects.

Sec. 5. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 37-B, section 152 takes effect on July 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 685

H.P. 1291 - L.D. 1773

An Act to Ensure the Continued Stability of Services for Persons with Mental Retardation

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

Whereas, agencies providing services to people with mental retardation are facing severe increases in workers' compensation insurance rates due to a reclassification of the worksites; and

Whereas, current reimbursement for services being provided by these agencies is not adequate to pay the increased workers' compensation insurance rates; and

Whereas, the Department of Mental Health and Mental Retardation has failed to develop a plan to resolve this problem; and

Whereas, some agencies face the possibility of closure due to their inability to make payment of their workers' compensation insurance premiums; 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-B MRSA §5481 is enacted to read:

§5481. Rates for fee-for-service programs

1. Agencies providing service. Beginning July 1, 1996, all rates for fee-for-service or grant-in-aid programs paid by the Department of Mental Health, Mental Retardation and Substance Abuse Services to private agencies providing services to individuals with mental retardation must consist of 2 parts.

A. The first part of the rate must be based upon negotiations between the department and the individual agency for projected costs to provide that service.

B. The 2nd part of the rate must reflect reimbursement for any increase in the cost of workers' compensation insurance over the cost in fiscal year 1995-96. This 2nd part must be adjusted annually upon renewal of the insurance. In this second part, providers that receive an experience modification rating of less than 1.0 must be paid 1/2 of any cost decrease attributable to their having received that experience rating. Providers that receive experience modification ratings between 1.0 and 1.39 and have loss prevention plans in place must be paid the full amount of any cost increase. Providers that receive experience modification ratings of 1.4 or greater and have loss prevention plans in place must be paid 1/2 of the cost increase.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1996-97

**MENTAL HEALTH, MENTAL
RETARDATION AND
SUBSTANCE ABUSE
SERVICES, DEPARTMENT OF**

**Medicaid Services - Mental
Retardation**

All Other	\$156,000
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Appropriates funds to support the net increase in the cost of workers' compensation insurance for certain agencies.

**Mental Retardation Services -
Community**

All Other	\$9,000
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Appropriates funds to support the net increase in the cost of

workers' compensation insurance for certain agencies.

**DEPARTMENT OF MENTAL
HEALTH, MENTAL
RETARDATION AND
SUBSTANCE ABUSE SERVICES**

TOTAL \$165,000

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

Effective April 11, 1996.

CHAPTER 686

H.P. 1287 - L.D. 1767

**An Act to Revise the Sunrise Review Process
for Occupational and Professional Regulation**

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

Sec. 1. 5 MRSA §12015, sub-§3, as enacted by PL 1985, c. 748, §13, is repealed and the following enacted in its place:

3. Sunrise review required. Any joint standing committee of the Legislature that considers proposed legislation to establish a board to license or otherwise regulate an occupation or profession not previously regulated or to substantially expand regulation of an occupation or profession currently regulated shall evaluate whether the occupation or profession should be regulated or further regulated. For the purposes of this section, "substantially expand regulation" means to add a new regulatory category or to expand the scope of practice for current practitioners. In order to evaluate this legislation, the joint standing committee shall, without a public hearing, briefly and informally review legislation referred to the committee that proposes a new occupational or professional board or substantial expansion of regulation and an applicant's answers pertaining to evaluation criteria as required by Title 32, section 60-J. Following this informal review, the committee shall:

A. Immediately hold a public hearing to accept information addressing the evaluation criteria listed in Title 32, section 60-J from any professional or occupational group or organization, any individual or any other interested party who is a proponent or opponent of the legislation;

B. Request that the Commissioner of Professional and Financial Regulation conduct an independent assessment of the applicant's answers to the evaluation criteria listed in Title 32, section

60-J and report the commissioner's findings back to the committee by a specific date; or

C. Request that the Commissioner of Professional and Financial Regulation establish a technical committee to assess the applicant's answers to the evaluation criteria listed in Title 32, section 60-J following the procedures of Title 32, chapter 1-A, subchapter II and report its findings to the commissioner within 6 months of establishment of the committee.

Any recommendation by a joint standing committee to the full Legislature for the establishment or expansion of jurisdiction of an occupational or professional regulatory board must include a written statement describing the manner in which the assessment of answers to the evaluation criteria was conducted and a concise summary of the evaluation.

Sec. 2. 32 MRSA c. 1-A, sub-c. II is enacted to read:

SUBCHAPTER II

SUNRISE REVIEW PROCEDURES

§60-J. Evaluation criteria

Pursuant to Title 5, section 12015, subsection 3, any professional or occupational group or organization, any individual or any other interested party, referred to in this section as the "applicant group," that proposes regulation of any unregulated professional or occupational group or substantial expansion of regulation of a regulated professional or occupational group shall submit with the proposal written answers and information pertaining to the evaluation criteria enumerated in this section to the appropriate committee of the Legislature. The technical committee, the Commissioner of Professional and Financial Regulation, referred to in this subchapter as the "commissioner," and the joint standing committee, before it makes its final recommendations to the full Legislature, also shall accept answers and information pertaining to the evaluation criteria from any party that opposes such regulation or expansion and from any other interested party. All answers and information submitted must identify the applicant group, the opposing party or the interested party making the submission and the proposed regulation or expansion of regulation that is sought or opposed. The commissioner may develop standardized questions designed to solicit information concerning the evaluation criteria. The preauthorization evaluation criteria are:

1. Data on group. A description of the professional or occupational group proposed for regulation or expansion of regulation, including the number of individuals or business entities that would

be subject to regulation, the names and addresses of associations, organizations and other groups representing the practitioners and an estimate of the number of practitioners in each group;

2. Specialized skill. Whether practice of the profession or occupation proposed for regulation or expansion of regulation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;

3. Public health; safety; welfare. The nature and extent of potential harm to the public if the profession or occupation is not regulated, the extent to which there is a threat to the public's health, safety or welfare and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, other professional or occupational boards and professional and occupational associations that have been lodged against practitioners of the profession or occupation in this State within the past 5 years;

4. Voluntary and past regulatory efforts. A description of the voluntary efforts made by practitioners of the profession or occupation to protect the public through self-regulation, private certifications, membership in professional or occupational associations or academic credentials and a statement of why these efforts are inadequate to protect the public;

5. Cost; benefit. The extent to which regulation or expansion of regulation of the profession or occupation will increase the cost of goods or services provided by practitioners and the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers;

6. Service availability of regulation. The extent to which regulation or expansion of regulation of the profession or occupation would increase or decrease the availability of services to the public;

7. Existing laws and regulations. The extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from nonregulation and whether regulation can be provided through an existing state agency or in conjunction with presently regulated practitioners;

8. Method of regulation. Why registration, certification, license to use the title, license to practice or another type of regulation is being proposed, why that regulatory alternative was chosen and whether the proposed method of regulation is appropriate;

9. Other states. A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws and available evidence from those states of the effect of regulation

on the profession or occupation in terms of a before-and-after analysis;

10. Previous efforts. The details of any previous efforts in this State to implement regulation of the profession or occupation;

11. Mandated benefits. Whether the profession or occupation plans to apply for mandated benefits;

12. Minimal competence. Whether the proposed requirements for regulation exceed the standards of minimal competence and what those standards are; and

13. Financial analysis. The method proposed to finance the proposed regulation and financial data pertaining to whether the proposed regulation can be reasonably financed by current or proposed licensees through dedicated revenue mechanisms.

§60-K. Commissioner's independent assessment

1. Fees. Any applicant group whose regulatory proposal has been directed to the commissioner for independent assessment shall pay an administrative fee determined by the commissioner, which may not exceed \$500. The commissioner may waive the fee if the commissioner finds it in the public's interest to do so. Such a finding by the commissioner may include, but is not limited to, circumstances in which the commissioner determines that:

A. The applicant group is an agency of the State; or

B. Payment of the application fee would impose unreasonable hardship on members of the applicant group.

2. Criteria. In conducting the independent assessment, the commissioner shall apply the evaluation criteria established in section 60-J to all of the answers and information submitted to the commissioner or otherwise collected by the commissioner pursuant to section 60-J.

3. Recommendations. The commissioner shall prepare a final report, for the joint standing committee of the Legislature that requested the evaluation, that includes any legislation required to implement the commissioner's recommendation. The commissioner may recommend that no legislative action be taken on a proposal. If the commissioner finds that final answers to the evaluation criteria are sufficient to support some form of regulation, the commissioner shall recommend an agency to be responsible for the regulation and the level of regulation to be assigned to the applicant group. The recommendations of the commissioner must reflect the least restrictive method of regulation consistent with the public interest.

§60-L. Technical committee; fees; membership; duties; commissioner's recommendation

1. Fees. Any applicant group whose regulatory proposal has been directed to the commissioner for review by a technical committee shall pay a fee determined by the commissioner as required to administer the technical committee, which fee may not exceed \$1,000. The administrative fee is not refundable, but the commissioner may waive all or part of the fee if the commissioner finds it in the public's interest to do so. Such a finding by the commissioner may include, but is not limited to, circumstances in which the commissioner determines that:

A. The applicant group is an agency of the State; or

B. Payment of the application fee would impose unreasonable hardship on members of the applicant group.

2. Technical committee membership. The commissioner shall appoint a technical committee consisting of 7 members to examine and investigate each proposal.

A. Two members must be from the profession or occupation being proposed for regulation or expansion of regulation.

B. Two members must be from professions or occupations with a scope of practice that overlaps that of the profession or occupation being proposed for regulation or expansion of regulation. If there is more than one overlapping profession or occupation, representatives of the 2 with the greatest number of practitioners must be appointed.

C. One member must be the commissioner or the commissioner's designee.

D. Two members must be public members. These persons and their spouses, parents or children may not be or ever have been members of, and may not have or ever have had a material financial interest in, the profession or occupation being proposed for regulation or expansion of regulation or another profession or occupation with a scope of practice that may overlap that of the profession or occupation being proposed for regulation.

The professional and public members serve without compensation. The chair of the committee must be the commissioner, the commissioner's designee or a public member. The commissioner shall ensure that the total composition of the committee is fair and equitable.

3. Meetings. As soon as possible after appointment, a technical committee shall meet and review the proposal assigned to it. Each committee shall investigate the proposed regulation and, on its own motion, may solicit public input. Notice of all meetings must be printed in the legislative calendar at an appropriate time preceding the meeting.

4. Procedure for review. Applicant groups are responsible for furnishing evidence upon which a technical committee makes its findings. The technical committee may also utilize information received through public input or through its own research or investigation. The committee shall make a report of its findings and file the report with the commissioner. The committee shall evaluate the application presented to it based on the information provided as required by section 60-J. If the committee finds that additional information is required to assist in developing its recommendations, it may require that the applicant group provide this information or may otherwise solicit information for this purpose. If the committee finds that final answers to the evaluation criteria are sufficient to support regulation of a profession or occupation not currently regulated, the committee must also recommend the least restrictive method of regulation to be implemented, consistent with the public interest. Whether it recommends approval or denial of an application, the committee may make additional recommendations regarding solutions to problems identified during the review.

5. Commissioner report. After receiving and considering reports from the technical committee, the commissioner shall prepare a final report, for the joint standing committee of the Legislature that requested the review, that includes any legislation required to implement the commissioner's recommendation. The final report must include copies of the committee report, but the commissioner is not bound by the findings and recommendations of the report. In compiling the report, the commissioner shall apply the criteria established in section 60-J and may consult with the technical committee. The recommendations of the commissioner must reflect the least restrictive method of regulation consistent with the public interest. The final report must be submitted to the joint standing committee of the Legislature having jurisdiction over occupational and professional regulation matters no later than 9 months after the proposal is submitted to the technical committee and must be made available to all other members of the Legislature upon request.

The commissioner may recommend that no legislative action be taken on a proposal. If the commissioner recommends that a proposal of an applicant group be approved, the commissioner shall recommend an agency to be responsible for the regulation and the

level of regulation to be assigned to the applicant group.

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

1996-97

**PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF**

Administrative Services Division

All Other \$1,500

Allocates funds for the costs of conducting the sunrise review process for proposed professional regulatory boards.

See title page for effective date.

CHAPTER 687

S.P. 668 - L.D. 1730

An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition

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 Human Services has implemented extremely strict medical eligibility criteria for Medicaid nursing facility assistance, which is commonly referred to by the name of the assessment form "MED-94"; and

Whereas, the MED-94 limits the review of an applicant's medical condition to the 7 days immediately prior to the day of the assessment, thereby precluding a comprehensive assessment based on the applicant's complete medical condition; and

Whereas, a 7-day period does not provide a sufficient basis by which to determine a person's long-term care needs and in many cases penalizes applicants for having an atypical week of relatively good health; and

Whereas, alternatives to nursing facility level of care continue to be grossly inadequate, particularly alternative settings that are capable of providing a high level of care to frail elderly citizens; 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 §3174-I, sub-§1, ¶B-2 is enacted to read:

B-2. The department shall establish additional assessment practices and related policies for persons with Alzheimer's disease and other dementias as follows.

(1) For persons who have been assessed using the department's primary assessment instrument and found to have cognitive or behavioral difficulties but who do not require nursing intervention with the frequency necessary to qualify for nursing facility level of care, the department shall administer a supplemental dementia assessment for those persons with cognitive and behavioral impairments. By May 1, 1996, the criteria reflected in this supplemental dementia assessment and the scoring mechanism must be incorporated into rules adopted by the department in consultation with consumers, providers and other interested parties. The assessment criteria proposed in the rulemaking must consider, but are not limited to, the following: orientation, memory, receptive communication, expressive communication, wandering, behavioral demands on others, danger to self or others and awareness of needs.

(2) The department shall reimburse a nursing facility for individuals who are eligible for care based on the supplemental dementia assessment only if the nursing facility demonstrates a program of training in the care of persons with Alzheimer's disease and other dementias for all staff responsible for the care of persons with these conditions. The department, in consultation with consumers, providers and interested parties, shall develop the requirements for training and adopt rules containing those requirements. By July 1, 1997, the department, in consultation with consumers, providers and interested parties, shall adopt rules establishing the standards for treatments, services and settings to meet the needs of individuals who have Alzheimer's disease and other dementias. These stan-

dards must apply to all levels of care available to such individuals.

(3) No later than January 15, 1997, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human service matters on the extent to which the use of the supplemental dementia assessment has expanded medical eligibility for nursing facility care to include persons with Alzheimer's disease or other dementias.

(4) Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

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

Effective April 11, 1996.

CHAPTER 688

S.P. 640 - L.D. 1675

An Act to Amend the Membership of Certain Boards and Commissions

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

Sec. 1. 5 MRSA §3307-E, sub-§1, ¶A, as enacted by PL 1991, c. 854, Pt. B, §1, is amended to read:

A. The Director of the State Planning Office, the Commissioner of Economic and Community Development, the Commissioner of Labor, the Commissioner of Professional and Financial Regulation, the Commissioner of Defense and Veterans' Services and the President of the Maine Technical College System, or the commissioners' designees, who serve ex officio;

Sec. 2. 5 MRSA §3307-E, sub-§3, as amended by PL 1993, c. 410, Pt. PPP, §1, is further amended to read:

3. Administration. The Commissioner of Economic and Community Development or the commissioner's designee is the chair of the task force. The Economic Conversion Division shall provide staff support to the task force. State agencies shall provide technical assistance to the task force as needed.

Sec. 3. 5 MRSA §3331, sub-§1, ¶H, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, is amended to read:

H. The Commissioner of Economic and Community Development or the commissioner's designee; and

Sec. 4. 5 MRSA §13001, sub-§1, ¶A, as enacted by PL 1991, c. 854, Pt. D, §1, is amended to read:

A. The Commissioner of Economic and Community Development or the commissioner's designee;

Sec. 5. 5 MRSA §13001, sub-§5, as amended by PL 1993, c. 410, Pt. PPP, §2, is further amended to read:

5. Chair. The council shall biennially elect a chair, except that the Commissioner of Economic and Community Development or the commissioner's designee shall chair the council for the term ending January 1, 1996.

Sec. 6. 5 MRSA §13031, sub-§3, as enacted by PL 1989, c. 875, Pt. L, §§2 and 4, is amended to read:

3. Commissioner. "Commissioner" means the Commissioner of Economic and Community Development or the commissioner's designee.

Sec. 7. 5 MRSA §13058, sub-§18 is enacted to read:

18. Commissioner's designee. When the commissioner is explicitly empowered by statute to appoint a designee to replace the commissioner on any board, commission or similar body, none of which have a termination date, and the commissioner appoints a designee, the commissioner shall appoint that designee from within the commissioner's department. The commissioner shall make this designee known to the appointing authority and to the chair of the body to which the appointment is made, if that body exists at the time of appointment. The designee is the only person who may fill that appointee position until a successor is designated through the same appointment procedure.

Sec. 8. 5 MRSA §13069, sub-§1, ¶A, as enacted by PL 1989, c. 875, Pt. M, §§6 and 13, is amended to read:

A. The commission consists of 11 members appointed by the Governor.

(1) The members appointed must be involved in a related business field or possess experience or familiarity with media marketing or public relations. The Governor shall ensure an equitable regional representation from the State.

(2) The Executive Director of the Maine Arts Commission and the commissioner or the commissioner's designee shall serve as ex officio nonvoting members of the commission.

Sec. 9. 10 MRSA §929-A, sub-§2, as enacted by PL 1993, c. 410, Pt. MMM, §1, is amended to read:

2. Membership. The council consists of 19 members. The Governor, President of the Senate and Speaker of the House of Representatives shall jointly appoint the following 18 members, 2 of whom shall serve as cochair of the council:

A. Fourteen members having a broad range of expertise in areas including but not limited to: labor, environment, business, and education; and

B. Four members of the Legislature with a demonstrated interest in economic development.

The Commissioner of Economic and Community Development or the commissioner's designee is a member of the council.

Sec. 10. 10 MRSA §934, sub-§3, ¶A, as enacted by PL 1989, c. 875, Pt. K, §1 and affected by §3, is amended to read:

A. The Commissioner of Economic and Community Development or the commissioner's designee;

Sec. 11. 20-A MRSA §12705, sub-§1, as amended by PL 1993, c. 111, §1, is further amended to read:

1. Membership. The board of trustees consists of 13 appointed voting members, one ex officio voting member and 3 2 ex officio, voting nonvoting members as follows:

C. Twelve from the field of business and industry, the field of labor, the field of education and the general public;

D. The Commissioner of Education, or the commissioner's successor, who serves as an ex officio voting member;

E. The Commissioner of Economic and Community Development, or the commissioner's successor, who serves as an ex officio nonvoting member;

F. The Commissioner of Labor, or the commissioner's successor, who serves as an ex officio nonvoting member; and

G. One member who is from the student body of one of the technical college campuses at the time of appointment and who is a permanent resident of the State. To be eligible for appointment as a student member, a student must be enrolled for a minimum of 12 credit hours per semester.

The student member is a full voting member of the board of trustees and serves for a 2-year term and until a successor is qualified. By January 1st of every 2nd year, the president of the system shall solicit a list of ~~§ 6~~ eligible students from the student governments from ~~§ 6~~ of the campuses within the Maine Technical College System, the ~~6th~~ 7th campus being excluded in accordance with this subsection. The Governor shall then nominate a student trustee chosen from the list within 30 days of receiving the list of names. The nomination is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Legislature. The student trustee may not come from the same campus in any 2 consecutive terms. In the event that the student trustee transfers from one campus to another during the student's term of appointment, the student's original campus of enrollment is the campus excluded when the next student trustee is appointed.

Sec. 12. 20-A MRSA §12705, sub-§7, as amended by PL 1987, c. 532, §2, is further amended to read:

7. Quorum. A quorum ~~shall consist~~ consists of a majority of the voting members of the board of trustees. No action may be taken without the affirmative vote of ~~6~~ a majority of the members present and voting.

See title page for effective date.

CHAPTER 689

H.P. 1211 - L.D. 1661

An Act to Increase the Penalty for Criminal Restraint of a Young Child

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

Sec. 1. 17-A MRSA §302, sub-§3, as repealed and replaced by PL 1979, c. 512, §25, is amended to read:

3. Criminal restraint is a Class D crime except that it is a Class C crime if the person restrained has in fact not attained 8 years of age.

See title page for effective date.

CHAPTER 690

H.P. 1234 - L.D. 1694

An Act Concerning Juveniles Who Have Been Adjudicated to Have Committed the Juvenile Crime of Gross Sexual Assault

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

Sec. 1. 15 MRSA §3308, sub-§7, ¶D is enacted to read:

D. When a juvenile who is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is committed to the Maine Youth Center or placed on probation, the Department of Corrections shall provide, while the juvenile is committed to the Maine Youth Center or on probation, a copy of the juvenile's judgment and commitment to the Department of Human Services, to all law enforcement agencies that have jurisdiction in those areas where the juvenile may reside, work or attend school and to the superintendent of any school system in which the juvenile attends school during the period of commitment or probation. The Department of Corrections may provide a copy of the juvenile's judgment and commitment to any other agency or person whom the Department of Corrections determines is appropriate to ensure public safety. Neither the failure of the Department of Corrections to perform the requirements of this paragraph nor compliance with this paragraph subjects the Department of Corrections or its employees to liability in a civil action.

Sec. 2. 15 MRSA §3309-A, sub-§2, as repealed and replaced by PL 1985, c. 213, is amended to read:

2. Information needed to make a disposition. Following an order of adjudication pursuant to section 3310, subsection 5, paragraph A, for the purposes of making a disposition; ~~and~~

Sec. 3. 15 MRSA §3309-A, sub-§3, as enacted by PL 1985, c. 213, is amended to read:

3. By consent of the parties. When the juvenile and the prosecuting attorney consent and the court finds that such an evaluation may be of assistance to it

in carrying out the purposes of the Maine Juvenile Code-; or

Sec. 4. 15 MRSA §3309-A, sub-§4 is enacted to read:

4. Juvenile adjudicated of gross sexual assault. After adjudication and before disposition when a juvenile is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1, the court shall order the juvenile to undergo a diagnostic evaluation at the Maine Youth Center.

Sec. 5. 15 MRSA §3313, sub-§3 is enacted to read:

3. Statement of reasons accompanying disposition for juvenile adjudicated of murder or a Class A, Class B or Class C crime. In a disposition for a juvenile crime that if committed by an adult would be murder or a Class A, Class B or Class C crime, the court shall state on the record and in open court the court's reasons for ordering or not ordering placement of the juvenile in a secure institution.

Sec. 6. 15 MRSA §3314, sub-§1, ¶E, as enacted by PL 1977, c. 520, §1, is repealed and the following enacted in its place:

E. The court may require the juvenile to make restitution for any damage to the victim or other authorized claimant as compensation for economic loss upon reasonable conditions that the court determines appropriate. For the purposes of this paragraph, the definitions in Title 17-A, section 1322 and the provisions of Title 17-A, section 1324 apply.

Sec. 7. Effective date. Sections 2 to 4 of this Act take effect January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 691

S.P. 654 - L.D. 1704

An Act Redefining the Community Services Structure of the Mental Health System

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

Whereas, the community mental health system is changing in response to the demands of society and the needs of recipients of mental health services; and

Whereas, it is imperative that new community-based structures be formed and operative by early fall, 1996, in order for necessary services to be available to persons in need of those services; 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 §20005-A, sub-§4, ¶¶A and B, as amended by PL 1995, c. 560, Pt. L, §6, are further amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days 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~~ 30 days 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.

Sec. 2. 22 MRSA §12-A, sub-§4, ¶¶A and B, as enacted by PL 1995, c. 402, Pt. B, §2, are amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days 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~~ 30 days 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.

Sec. 3. 34-B MRSA §1204, sub-§2, paragraph C, as repealed and replaced by PL 1995, c. 560, Pt. K, §15, is amended to read:

C. The commissioner shall appoint the following officials to serve at the commissioner's pleasure:

- (1) Associate Commissioners;
- (2) Superintendent, Augusta Mental Health Institute;
- (3) Superintendent, Bangor Mental Health Institute;
- (4) Superintendent, Pineland Center;
- (5) Director, Mental Retardation Facility;
- (6) Director, Elizabeth Levinson Center;
- (7) Assistant to the Commissioner for Public Information;
- (8) Assistant to the Commissioner;
- (9) Director, Bath Children's Home. This subparagraph is repealed on July 1, 1996;
- (10) Regional Directors, who shall report directly to the commissioner; and
- (11) Director, Office of Substance Abuse.

The Director of the Office of Substance Abuse must be reviewed by the joint standing committee of the Legislature having jurisdiction over human resource matters prior to taking office.

Sec. 4. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 1989, c. 7, Pt. N, §3, is further amended to read:

B. Information may be disclosed if necessary to carry out any of the statutory functions of the department, the hospitalization provisions of chapter 3, subchapter IV, the purposes of sections 3607 and 3608, the purposes of Title 22, section 3554, the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, or the purposes of Title 18-A, section 5-601, subsection (b), ~~where when~~ the Department of Human Services is requested by the Department of Mental Health ~~and~~ Mental Retardation and

Substance Abuse Services to act as public guardian or public conservator;

Sec. 5. 34-B MRSA §1208-A, sub-§4, ¶¶A and B, as affected by PL 1995, c. 560, Pt. K, §81, are amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days 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~~ 30 days 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.

Sec. 6. 34-B MRSA §3604, sub-§5 is enacted to read:

5. Exclusion. Beginning October 1, 1996, an entity that applies for the award or renewal of a grant or contract for the provision of mental health services must be a participating member of the quality improvement council or the local service network, as defined in section 3607, for the region of the State subject to that grant or contract or an interested party assisting a council pursuant to section 3607, subsection 8.

Sec. 7. 34-B MRSA §§3607, 3608 and 3609 are enacted to read:

§3607. Quality improvement councils

The department shall establish 9 quality improvement councils to oversee the delivery of mental health services to children and adults under the authority of the department.

1. Definitions. As used in this section and sections 3608 and 3609, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community members" means persons who represent the composition of the community at large.

B. "Consumer" means a recipient or former recipient of publicly funded mental health services.

C. "Council" means a quality improvement council approved by the commissioner pursuant to subsection 2, paragraph D.

D. "Family member" means a relative, guardian or household member of an adult consumer.

E. "Network" means a local service network established pursuant to section 3608.

F. "Parent" means a parent or a person who has acted in that capacity or assumed that role for a consumer under 18 years of age.

G. "Regional director" means a regional director appointed pursuant to section 1204, subsection 2, paragraph C, subparagraph (10).

H. "Service provider" or "provider" means a person or organization providing publicly funded mental health services to consumers or family members.

2. Councils established. There is established an approved quality improvement council in each area designated in subsection 3, referred to in this section as "area council," and for the Augusta Mental Health Institute and the Bangor Mental Health Institute, referred to in this section as "institute council." The councils operate under the authority of the department. Each council consists of the initial members chosen pursuant to paragraph B, the members subsequently chosen pursuant to council bylaws, the members of the network established pursuant to section 3608 and any advisory committees established pursuant to subsection 8.

A. The councils shall assist the department and providers with systems planning and needs assessment at the local level and community education and quality improvement activities that must be implemented at the local level. Through the program evaluation teams the councils shall perform program assessment.

B. Each area council consists of 24 members whose membership takes into consideration local geographic factors. The membership on each council consists of 4 adult consumers, 4 family members, 4 parents, 6 community members and 6 service providers. Any resident of a council area may make recommendations regarding initial membership on the local area council to the commissioner, who shall make the appointments by June 1, 1996. The commissioner or a designee of the commissioner shall convene the first meeting of each council by June 15, 1996.

C. Each institute council consists of 16 members whose membership takes into consideration local

geographic factors. The membership on each council consists of 4 consumers, 4 family members, 4 community members and 4 providers. Any resident or former resident of the Augusta Mental Health Institute or the Bangor Mental Health Institute, any family member of a resident or former resident, any community member in the Augusta or Bangor region and any service provider at those institutes may make recommendations regarding membership on the institute councils to the commissioner, who shall make the initial appointments by June 1, 1996. The commissioner or a designee of the commissioner shall convene the first meeting of each council by June 15, 1996.

D. The councils shall adopt bylaws that establish the terms and qualifications of membership, the selection of members succeeding the initial members and the internal governance and rules. The commissioner shall approve the bylaws of each council prior to designating it as an approved council.

E. Under the supervision of each council, a program evaluation team of nonprovider members shall review each program funded by the department on a periodic basis. The results of the review must be reported to the council and the regional director for the department and must be considered in funding decisions by the department.

3. Areas. An area council shall operate in each of the following geographic areas:

A. Aroostook County;

B. Hancock County, Washington County, Penobscot County and Piscataquis County;

C. Kennebec County and Somerset County;

D. Knox County, Lincoln County, Sagadahoc County and Waldo County;

E. Androscoggin County, Franklin County and Oxford County;

F. Cumberland County; and

G. York County.

4. Accountability. Each area council is accountable to the regional director. The institute councils are accountable to the director of facility management within the department.

5. Duties. By October 1, 1996, each council shall submit to the department a plan for the development, coordination and implementation of a local mental health system for the delivery of services to

children and adults under the authority of the department and to their families. This plan must be updated every 2 years. The department shall determine required elements of the plan, including but not limited to the following:

A. Case management, including advocacy activities and techniques for identifying and providing services to consumers at risk. Case management services must be independent of providers whenever possible;

B. Medication management, outpatient therapy, substance abuse treatment and other outpatient services;

C. In-home flexible supports, home-based crisis assistance, mobile outreach, respite and inpatient capacity and other crisis prevention and resolution services;

D. Housing, in-home support services, tenant training and support services, home ownership options and supported housing; and

E. Rehabilitation and vocational services, including transitional employment, supported education and job finding and coaching.

6. Regional directors; responsibilities. Each regional director is responsible for the operation of the area councils within the region and for dispute resolution within those area councils. Each regional director shall receive reports from the councils, consider the recommendations of the councils and report periodically to the commissioner on their performance.

7. Institute council directors; responsibilities. The director of facility management within the department is responsible for the operation of the councils of the Augusta Mental Health Institute and the Bangor Mental Health Institute and for dispute resolution within those institute councils. The director shall receive reports from the councils, consider the recommendations of the councils and report periodically to the commissioner on their performance.

8. Public outreach. Each council shall solicit the participation of interested consumers, families, parents, community members and service providers to serve on the council, the network or advisory committees.

9. Participation. State-operated direct service programs shall participate in the activities of the councils.

§3608. Local service networks

The department shall establish networks to participate with the area councils, as defined in section

3607, subsection 2, in the delivery of mental health services to children and adults under the authority of the department. A network consists of persons and organizations providing mental health services under contract or grant from the department in the corresponding area specified in section 3607, subsection 3.

1. Responsibilities. Each network shall perform the following responsibilities:

A. Deliver and coordinate 24-hour crisis response services accessible through a single point of entry to adults with mental illness and to children and adolescents with severe emotional disturbance and their families;

B. Ensure continuity, accountability and coordination regarding service delivery;

C. Participate in a uniform client data base;

D. In conjunction with the regional director and the area council, conduct planning activities; and

E. Develop techniques for identifying and providing services to consumers at risk.

2. Accountability. Each network is accountable to the area council and the regional director.

3. Public outreach. Each network shall solicit the participation of interested providers to serve on the area council, the network or advisory committees.

4. Participation. State-operated direct service programs shall participate in the activities of the networks.

§3609. Statewide quality improvement council

Each council shall designate a member and an alternate to serve on a statewide quality improvement council to advise the commissioner on issues of system implementation that have statewide impact. The commissioner shall appoint other members to serve on the council.

Sec. 8. PL 1995, c. 395, Pt. H, §9 is amended to read:

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. 9. Board abolished. The Southern Maine Regional Mental Health Board is abolished on June 30, 1996.

Sec. 10. First option. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall give first option to the members of the Southern Maine Regional Mental Health Board when appointing the initial members of the area councils, pursuant to the Maine Revised Statutes, Title 34-B, section 3607, subsection 2, for that region of the State.

Sec. 11. Report. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 1997 and by January 1, 1998 on the operation of quality improvement councils as established in the Maine Revised Statutes, Title 34-B, section 3607 and local service networks as established in Title 34-B, section 3608 and shall include recommendations for improving the operations and any legislation necessary to accomplish those purposes.

Sec. 12. Reinvestment of funds. Notwithstanding any other provision of law, revenue received by the Department of Mental Health, Mental Retardation and Substance Abuse Services from Maximus-related initiatives must be dedicated for use by the department and used as follows by the department: 50% for children's services and 50% for services required by the consent decree in the matter of Paul Bates, et al., versus Melodie Peet, et al., Kennebec County docket number CV-89-88. Funds must be deposited in the appropriate Other Special Revenue account for achieving these purposes. Allotment of these funds may be made by financial order upon the recommendation of the State Budget Officer and with the approval of the Governor.

Sec. 13. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

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

All Other \$500

Provides funds to establish a base allocation in the event Maximus-related revenues are received to provide additional services to children.

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

Effective April 11, 1996.

CHAPTER 692

S.P. 712 - L.D. 1812

**An Act to Extend Health Care Coverage for
Parents Leaving the Aid to Families with
Dependent Children Program**

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

Sec. 1. 22 MRSA §3741-G, as repealed and replaced by PL 1995, c. 418, Pt. A, §10, is amended to read:

§3741-G. Transitional medical assistance

The department shall administer a program to provide transitional eligibility for medical assistance to families whose average gross monthly earnings, minus such costs for child care as is necessary for employment, do not exceed 185% of the federal poverty guidelines 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 for the purpose of determining eligibility and premium payments for benefits under this section in accordance with rules adopted by the department.~~ Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

4. Premiums; copayments; deductibles. To continue to receive extended medical assistance following the first 6 months of coverage, a family entering the transitional medical assistance program prior to February 1, 1997, with income above 133% of the federal poverty guidelines must pay premiums ~~for the 7th to 9th months at \$10 per month and for the 10th to 12th months at \$20 per month in accordance with rules adopted by the department.~~ Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. A family entering the transitional medical assistance program on or after February 1, 1997 whose family's average gross monthly earnings, less the average monthly costs for such child care as is necessary for employment, is above 100% of the federal poverty guidelines, shall pay, beginning in their 7th month of receiving transitional medical assistance, monthly premiums equal to 3% of their average gross monthly earnings, less the average monthly costs for such child care as is necessary for employment.

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.

6. Extended benefits. The department shall extend the transitional medical assistance program to families who meet the requirements of the program and who enter the transitional medical assistance program on or after February 1, 1997 for 2 years beyond the families' initial one-year period of eligibility. In administering the extended benefits under this subsection, the department shall require the reporting of income or circumstances and the payment of premiums according to subsections 3 and 4.

Sec. 2. Department directed to seek waiver. By October 1, 1996, the Department of Human Services shall determine whether the purposes of the Maine Revised Statutes, Title 22, section 3741-G, subsection 6 may be accomplished without a waiver of the provisions of the United States Social

Security Act, 42 United States Code (1995). If the department determines that no waiver is required, the department shall amend the state plan to accomplish the purposes of this subsection.

If the department determines that a waiver under the United States Social Security Act, 42 United States Code, Section 1315(a) (1995) is necessary to achieve the purposes of Title 22, section 3741-G, subsection 6, by December 1, 1996, the department shall apply for the waiver or request an amendment to a pending or existing waiver.

See title page for effective date.

CHAPTER 693

H.P. 1159 - L.D. 1593

An Act to Implement the Productivity Plan of the Department of Agriculture, Food and Rural Resources Relating to the Animal Welfare Board, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council

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

Whereas, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council play an important public role in educating the public and contributing to the health of Maine's dairy industry; and

Whereas, the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council will operate more efficiently and provide enhanced services as public instrumentalities; 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-H, sub-§§3 and 4, as amended by PL 1991, c. 376, §26, are repealed.

Sec. 2. 5 MRSA §12004-I, sub-§2-B, as enacted by PL 1991, c. 779, §2, is repealed.

Sec. 3. 7 MRSA §1, as amended by PL 1995, c. 502, Pt. C, §3, is further amended to read:

§1. Department of Agriculture, Food and Rural Resources

The Department of Agriculture, Food and Rural Resources, is established and is maintained for the improvement of agriculture and the advancement of the interests of husbandry. The Department of Agriculture, Food and Rural Resources is referred to in this Title as the "department" and consists of the Commissioner of Agriculture, Food and Rural Resources, in this Title called the "commissioner," and the following: The Aroostook Water and Soil Management Board, the Board of Pesticide Control, ~~the Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Maine Potato Board, the Seed Potato Board, the State Soil and Water Conservation Commission, the Harness Racing Commission and the Board of Veterinary Medicine.~~ The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and to confirmation by the Legislature, and holds office during the pleasure of the Governor. The commissioner is entitled to receive actual expenses incurred in the performance of the commissioner's official duties. The commissioner may employ such clerical labor as may be required, subject to the Civil Service Law, and may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of the commissioner's duties, the same to be paid out of any money appropriated by the Legislature for such purpose.

Sec. 4. 7 MRSA §2, 3rd ¶, as amended by PL 1989, c. 878, Pt. B, §7, is further amended to read:

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority is exclusively within the specific board, bureau, agency, commission, committee or other governmental unit: ~~The Maine Dairy and Nutrition Council Committee, the Maine Dairy Promotion Board, the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, the Maine Potato Board, the Soil and Water Conservation Commission, the Board of Veterinary Medicine and the Board of Pesticide Control.~~

Sec. 5. 7 MRSA §2956, 3rd ¶ from the end, as corrected by RR 1993, c. 1, §17, is amended to read:

Each licensed dealer shall pay to the commission an annual license fee of \$1 and the sum of 6 1/2¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. Two and one-half cents

per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk, except that the milk farm-processed into cream for the manufacture of butter is not subject to such sums of 6 1/2¢ per hundredweight. Of the amount paid by each dealer, 1 1/2¢ per hundredweight must be paid by the commission to the Maine Dairy and Nutrition Council for the purposes authorized by section 2999. The commission shall make payments to the Maine Dairy and Nutrition Council on a monthly basis.

Sec. 6. 7 MRSA §2991, sub-§3-A is enacted to read:

3-A. Council. "Council" means the Maine Dairy and Nutrition Council.

Sec. 7. 7 MRSA §2992, as amended by PL 1993, c. 689, §1, is repealed.

Sec. 8. 7 MRSA §2992-A is enacted to read:

§2992-A. Maine Dairy Promotion Board

1. Board established as a public instrumentality. The Maine Dairy Promotion Board is established as a public body corporate and politic and a public instrumentality of the State. The exercise of powers conferred by this chapter is held to be the performance of essential government functions.

A. Employees of the board may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372.

B. The board may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4.

C. Notwithstanding paragraphs A and B:

(1) Employees of the board, including employees hired after the effective date of this section, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II;

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter I, except that by majority vote of those members present records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Food and

Rural Resources and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

(3) For the purposes of the Maine Tort Claims Act, the board is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the board pursuant to chapter 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the board are governed by the conflict of interest provisions set forth in Title 5, section 18.

2. Board membership. The board consists of the following 5 members:

A. Two members appointed by organizations of producers who sell milk on the Maine market. The members appointed under this paragraph may not be from the same organization;

B. Two members appointed by organizations of producers who sell milk on the Boston market under the current federal milk marketing order. The members appointed under this paragraph may not be from the same organization; and

C. The Commissioner of Agriculture, Food and Rural Resources.

3. Board chair. The board shall annually elect a chair.

4. Producer members. A person who is a producer may not be appointed to the board if that person:

A. Sells milk on the same market as a producer member; and

B. Belongs to the same agricultural cooperative as that producer member or sells milk to the same dealer as that producer member.

5. Cross membership; prohibition. A board member may not be a member of the Maine Dairy and Nutrition Council, established under section 2998-B.

6. Quorum; voting. Fifty-one percent of the members of the board constitutes a quorum and the

affirmative vote of at least 51% of members present at a meeting is necessary to transact all business and carry out the duties of the board.

7. Terms. Board members are appointed to 4-year terms and may not serve more than 2 consecutive terms. A vacancy caused by death, resignation or otherwise must be promptly filled by the appointing authority for the vacated position. A producer member who changes the market in which the member sells milk is considered to have vacated membership if the change continues in excess of 6 months.

8. Compensation. The members of the board are entitled to compensation from funds received pursuant to chapter 611 according to such guidelines as the board may establish.

9. Executive director; staff. The board shall appoint an executive director who is the board's chief administrative officer and serves at the pleasure of the board. The executive director shall employ, as the board directs, additional staff who serve at the pleasure of the executive director. The salary paid to the executive director and other staff of the board must be fixed by the board. The board may delegate to its staff the power to execute the board's policies and programs, subject to the board's oversight.

10. Sharing of staff. The board and the Maine Dairy and Nutrition Council, established in section 2998-B, may share an executive director and staff. The total salary of a shared employee may be agreed to by the board and council and the percentage of the salary paid by the board must be proportional to the work performed for the board by the shared employee. The board shall utilize accounting procedures adequate to track the proportion of work a shared employee performs for the board.

11. Debt. A debt or obligation incurred by the board is not a debt or obligation of the State.

Sec. 9. 7 MRSA §2993, sub-§3 and 5, as amended by PL 1993, c. 689, §2, are further amended to read:

3. Books and records. Shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. ~~The State Auditor~~ An independent certified public account shall conduct an annual audit of the financial records of the board and report the results of the audit to the board, the commissioner, the Treasurer of State and the Legislature. ~~All books and records of the board must be open to public inspection in accordance with Title 1, chapter 13, except that records and meetings of the board may by vote be closed to the public when public disclosure of the subject matter of the records or meetings would~~

~~adversely affect the competitive position of the milk industry of the State or segments of that industry;~~

~~5. **Funding.** May, in addition to the money received by the board pursuant to section 2994, receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes. All money received from any source must be placed in a nonlapsing, separate account or accounts to be expended for those purposes.~~

Sec. 10. 7 MRSA §2994, as enacted by PL 1991, c. 376, §28, is repealed.

Sec. 11. 7 MRSA §2994-A is enacted to read:

§2994-A. Cooperation with similar boards

The board may cooperate with similar organizations in other states and regions and may pay to the similar organizations that part of its funds as it determines is in the best interest of the dairy industry of the State.

Sec. 12. 7 MRSA §2997, sub-§§1-A and 1-B are enacted to read:

1-A. Board. "Board" means the Maine Dairy Promotion Board.

1-B. Council. "Council" means the Maine Dairy and Nutrition Council.

Sec. 13. 7 MRSA §2998, as amended by PL 1993, c. 689, §3, is repealed.

Sec. 14. 7 MRSA §2998-A, as enacted by PL 1993, c. 689, §4, is repealed.

Sec. 15. 7 MRSA §2998-B is enacted to read:

§2998-B. Maine Dairy and Nutrition Council

1. Council established as a public instrumentality. The Maine Dairy and Nutrition Council is established as a public body corporate and politic and a public instrumentality of the State. The exercise of powers conferred by this chapter is held to be the performance of essential government functions.

A. Employees of the council may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372.

B. The council may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4.

C. Notwithstanding paragraphs A and B:

(1) Employees of the council, including employees hired after the effective date of this section, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II;

(2) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter I, except that by majority vote of those members present records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Food and Rural Resources and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council;

(3) For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the council pursuant to chapters 603 and 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18.

2. Council membership. The council consists of the following 5 members:

A. Two members appointed by organizations of Maine milk producers who sell milk on the Maine market. The members appointed under this paragraph may not be from the same organization;

B. Two members appointed by organizations of Maine milk producers who sell milk on the Boston market under the current federal milk marketing order. The members appointed under this paragraph may not be from the same organization; and

C. One member representing Maine milk dealers, appointed by the commissioner.

3. Council chair. The council shall annually elect a chair.

4. Producer members. A person who is a producer may not be appointed to the council if that person:

A. Sells milk on the same market as a producer member; and

B. Belongs to the same agricultural cooperative as that producer member or sells milk to the same dealer as that producer member.

5. Cross membership; prohibition. A council member may not be a member of the Maine Dairy Promotion Board, established under section 2992-A.

6. Quorum; voting. Fifty-one percent of the members of the council constitutes a quorum and the affirmative vote of at least 51% of members present at a meeting is necessary to transact all business and carry out the duties of the council.

7. Terms. Producer members are appointed to 4-year terms and may not serve more than 2 consecutive terms. The dealer council member is appointed to a 4-year term and may not serve consecutive terms. A vacancy caused by death, resignation or otherwise, must be promptly filled by the appointing authority for the vacated position. A producer member who changes the market in which the member sells milk is considered to have vacated membership if the change continues in excess of 6 months.

8. Compensation. The members of the council are entitled to compensation from funds received pursuant to chapters 603 and 611 according to such guidelines as the council may establish.

9. Executive director; staff. The council shall appoint an executive director who is the council's chief administrative officer and serves at the pleasure of the council. The executive director shall employ, as the council directs, additional staff who serve at the pleasure of the executive director. The salary paid to the executive director and other staff of the council must be fixed by the council. The council may delegate to its staff the power to execute the council's policies and programs, subject to the council's oversight.

10. Sharing of staff. The council and the Maine Dairy Promotion Board, established in section 2992-A, may share an executive director and staff. The total salary of a shared employee may be agreed to by the council and board and the percentage of the salary paid by the council must be proportional to the

work performed for the council by the shared employee. The council must utilize accounting procedures adequate to track the proportion of work a shared employee performs for the council.

11. Debt. A debt or obligation incurred by the council is not a debt or obligation of the State.

Sec. 16. 7 MRSA §2999, sub-§§3 and 5, as enacted by PL 1993, c. 689, §5, are amended to read:

3. Books and records. Shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. ~~The State Auditor~~ An independent certified public accountant shall conduct an annual audit of the financial records of the council and report the results of the audit to the council, the commissioner, the Treasurer of State and the Legislature. All books and records of the council must be open to public inspection in accordance with Title 1, chapter 13, except that records and meetings of the council may by vote be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the State's milk industry or segments of that industry;

5. Funding. May receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes. ~~All money received from any source must be placed in a nonlapsing, separate account or accounts, to be expended for those purposes.~~

Sec. 17. 7 MRSA §3153, sub-§1, as enacted by PL 1983, c. 573, §4, is amended to read:

1. Establishment. Within 180 days after the effective date of this chapter, the commissioner shall ~~promulgate~~ adopt rules establishing a fund to be known as the "Maine Milk Pool," to which all ~~moneys~~ money collected from Maine dealers pursuant to subsections 2 and 3 shall must be credited. These funds shall must be redistributed to eligible Maine market producers, eligible northern Maine market producers and eligible Boston market producers according to procedures, ~~northern Maine market producers~~ established under subsection subsection 4.

Sec. 18. 7 MRSA §3153, sub-§3, as amended by PL 1985, c. 506, Pt. B, §5, is further amended to read:

3. Additional collections for promotion. Effective June 1, 1984, each producer-dealer shall on a monthly basis pay to the Maine Milk Pool a promotion fee equal to .6 of 1% for a period of one year ending May 31, 1985, and thereafter shall, on a monthly basis, pay a promotion fee at the rate of 10¢ per hundredweight applied to all milk produced by the producer-dealer. This promotion fee shall must be

credited on a monthly basis to the Maine Dairy Promotion Board, except that 1.5¢ per hundredweight for the first year and 2¢ per hundredweight thereafter ~~shall must~~ be paid by the board on a monthly basis to the Maine Dairy and Nutrition Council. This promotion fee ~~shall must~~ also be paid to the Maine Milk Pool by Maine market dealers on all milk imported for sale within the State and ~~such those~~ sums ~~shall must~~ be credited in the same manner.

Sec. 19. 7 MRSA §3154, sub-§2, as amended by PL 1985, c. 506, Pt. B, §6, is further amended to read:

2. Deductions. Prior to the redistribution of the pool as provided in section 3153, the commissioner shall deduct the following:

A. Amounts sufficient to cover the costs of administering this chapter. Those amounts ~~shall must~~ be determined annually and ~~shall must~~ be adopted by rule by the commissioner; and

B. Amounts paid to the Maine Dairy Promotion Board on a monthly basis for the purposes authorized by ~~Title 36, section 4501-2993~~, equal to .6 of 1% for one year beginning June 1, 1984, and ending May 31, 1985, and thereafter equal to the rate of 10¢ per hundredweight applied to all milk produced, purchased or imported for sale within the State, excluding milk consumed on the farm where produced. Of the amount credited to the Maine Dairy Promotion Board, 1.5¢ per hundredweight for the first year after the establishment of the pools and 2¢ per hundredweight thereafter ~~shall must~~ be paid by the board on a monthly basis to the Maine Dairy and Nutrition Council; and.

Sec. 20. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

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

**Maine Dairy and Nutrition
Council**

Positions - Other Count	(-3.5)
Personal Services	(\$138,555)
All Other	(105,623)
TOTAL	(244,178)

Deallocates funds to reflect the establishment of the Maine

Dairy and Nutrition Council as a public instrumentality of the State.

Maine Dairy Promotion Board

Positions - Other Count	(-2.0)
Personal Services	(70,706)
All Other	(625,667)
Capital Expenditures	(4,500)
TOTAL	(700,873)

Deallocates funds to reflect the establishment of the Maine Dairy Promotion Board as a public instrumentality of the State.

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

(\$944,961)

**MAINE DAIRY AND
NUTRITION COUNCIL**

**Maine Dairy and Nutrition
Council**

All Other	\$244,178
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Allocates funds to reflect the establishment of the Maine Dairy and Nutrition Council as a public instrumentality of the State.

**MAINE DAIRY AND
NUTRITION COUNCIL
TOTAL**

\$244,178

**MAINE DAIRY PROMOTION
BOARD**

Maine Dairy Promotion Board

All Other	\$700,873
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Allocates funds to reflect the establishment of the Maine Dairy Promotion Board as a public instrumentality of the State.

**MAINE DAIRY PROMOTION
BOARD
TOTAL**

\$700,873

TOTAL ALLOCATIONS

\$-0-

Sec. 21. Transition provisions. The following provisions apply to the Maine Dairy and Nutrition Council on July 1, 1996.

1. Funds transferred. All funds held by the State for distribution to the Maine Dairy and Nutrition Council pursuant to the Maine Revised Statutes, Title 7, sections 2956, 3153 and 3154 must be transferred to the council in its capacity as an independent agency.

2. Personnel transferred. Employees of the Maine Dairy and Nutrition Council must be transferred from state employment to the Maine Dairy and Nutrition Council in its capacity as an independent agency.

3. Retirement benefits. Employees of the Maine Dairy and Nutrition Council continue to be treated as state employees for purposes of rights and benefits under the Maine State Retirement System. The retirement accounts of employees transferred to the council in its capacity as an independent agency must remain in the state regular plan. New employees also become members of the Maine State Retirement System under the state regular plan. The council shall make employer contributions at the state regular plan rate. Employees shall make employee contributions at the state regular plan rate.

4. Health insurance. Employees of the Maine Dairy and Nutrition Council continue to be treated as state employees for the purposes of the State Employee Health Insurance Program. Council employees are entitled to the same retirement health benefits as state employees.

5. Debt or obligation. A debt or obligation incurred by the Maine Dairy and Nutrition Council prior to July 1, 1996 that remains, in whole or in part, payable to any person becomes a debt or obligation of the council, not the State.

6. Contracts and agreements. All contracts and agreements with the Maine Dairy and Nutrition Council in effect prior to July 1, 1996 remain in effect following the effective date of this Act.

7. Terms of council members. Members of the Maine Dairy and Nutrition Council on July 1, 1996 serve as members of the council in its capacity as an independent agency until their terms expire. New members must be chosen to achieve the qualifications required in the Maine Revised Statutes, Title 7, section 2998-B at the earliest possible date.

8. Accrued fringe benefits. The accrued fringe benefits of employees transferred to the Maine Dairy and Nutrition Council in its capacity as an

independent agency, including vacation and sick leave, health and life insurance and retirement, remain with the transferred employee.

9. Transfer of property and equipment. All property and equipment owned by the Maine Dairy and Nutrition Council remains the property and equipment of the council as an instrumentality.

Sec. 22. Transitional actions. From the effective date of this Act until July 1, 1996, the Maine Dairy and Nutrition Council is authorized to sign contracts and take planning measures necessary for transition in its capacity as an independent agency.

1. Assistance. The Department of Administrative and Financial Services shall assist the Maine Dairy and Nutrition Council and the council's executive director with the orderly implementation of transition provisions under this Act.

Sec. 23. Transition provisions. The following provisions apply to the Maine Dairy Promotion Board on July 1, 1996.

1. Funds transferred. All funds held by the State for distribution to the Maine Dairy Promotion Board pursuant to the Maine Revised Statutes, Title 7, sections 3153 and 3154 must be transferred to the board in its capacity as an independent agency.

2. Personnel transferred. Employees of the Maine Dairy Promotion Board shall be transferred from state employment to the Maine Dairy Promotion Board in its capacity as an independent agency.

3. Retirement benefits. Employees of the Maine Dairy Promotion Board continue to be treated as state employees for purposes of rights and benefits under the Maine State Retirement System. The retirement accounts of employees transferred to the board in its capacity as an independent agency must remain in the state regular plan. New employees also become members of the Maine State Retirement System under the state regular plan. The board shall make employer contributions at the state regular plan rate. Employees shall make employee contributions at the state regular plan rate.

4. Health insurance. Employees of the Maine Dairy Promotion Board continue to be treated as state employees for the purposes of the State Employee Health Insurance Program. Board employees are entitled to the same retirement health benefits as state employees.

5. Debt or obligation. A debt or obligation incurred by the Maine Dairy Promotion Board prior to July 1, 1996 that remains, in whole or in part, payable to any person becomes a debt or obligation of the board, not the State.

6. Contracts and agreements. All contracts and agreements with the Maine Dairy Promotion Board in effect prior to July 1, 1996 remain in effect following the effective date of this Act.

7. Terms of board members. Members of the Maine Dairy Promotion Board on July 1, 1996 serve as members of the board in its capacity as an independent agency until their terms expire. New members must be chosen to achieve the qualifications required in the Maine Revised Statutes, Title 7, section 2992-A at the earliest possible date.

8. Accrued fringe benefits. The accrued fringe benefits of employees transferred to the Maine Dairy Promotion Board in its capacity as an independent agency, including vacation and sick leave, health and life insurance and retirement, remain with the transferred employee.

9. Transfer of property and equipment. All property and equipment owned by the Maine Dairy Promotion Board remains the property and equipment of the board as an instrumentality.

Sec. 24. Transitional actions. From the effective date of this Act until July 1, 1996, the Maine Dairy Promotion Board is authorized to sign contracts and take planning measures necessary for transition in its capacity as an independent agency.

1. Assistance. The Department of Administrative and Financial Services shall assist the Maine Dairy Promotion Board and the board's executive director with the orderly implementation of transition provisions under this Act.

Sec. 25. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 7, sections 2956, 2993, 2999, 3153 and 3154 are effective July 1, 1996. Those sections of this Act that repeal the Maine Revised Statutes, Title 7, sections 2992, 2994, 2998 and 2998-A are effective July 1, 1996. Those sections of this Act that enact the Maine Revised Statutes, Title 7, section 2991, subsection 3-A, section 2992-A, section 2994-A, section 2997, subsection 1-A and section 2998-B are effective July 1, 1996.

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

Effective April 11, 1996, unless otherwise indicated.

CHAPTER 694

H.P. 1347 - L.D. 1842

An Act to Recodify and Revise the Maine Revised Statutes, Title 19

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

PART A

Sec. A-1. 5 MRSA §12004-I, sub-§52-B is enacted to read:

<u>52-B.</u>	<u>Family Law</u>	<u>None</u>	<u>19</u>
<u>Judiciary:</u>	<u>Advisory</u>	<u>Authorized</u>	<u>MRSA</u>
<u>Family Law</u>	<u>Commission</u>		<u>§2001</u>

Sec. A-2. 19 MRSA §214, sub-§9, as amended by PL 1993, c. 472, §1, is further amended to read:

9. Support order. The court may order either parent of a minor child to contribute reasonable and just sums as child support payable weekly, monthly or quarterly. The court also may order the child's nonprimary care provider to pay past support. Availability of public welfare benefits to the family may not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to chapter 7, subchapter V. If such an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section and a determination of past support must comply with chapter 7, subchapter I-A.

After January 1, 1990, the court may order either parent to provide child support beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever first occurs.

The court's order may include a requirement for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring the obligated parent to obtain and maintain health insurance coverage for medical, hospitalization and dental expenses, if health insurance is available to the obligated parent at reasonable cost. The court order must also require the obligated parent to furnish proof of coverage to the obligee within 15 days of receipt of a copy of the court order. For the purposes of this section, health insurance is considered reasonable in cost if it is employment-related or other group health insurance. If health insurance is not available

at reasonable cost at the time of the hearing, the court order must establish the obligation to provide health insurance on the part of the obligated parent effective immediately upon insurance being available at reasonable cost. The court may enforce a support order as provided in chapter 14-A.

When the Department of Human Services provides support enforcement services, the support order must include a provision that requires the responsible parent to keep the department informed of any changes in that parent's current address, the name and address of that parent's current employer and whether the responsible parent has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information and any subsequent changes.

Sec. A-3. 19 MRSA §272, first ¶, as amended by PL 1989, c. 298, §1, is further amended to read:

Paternity may be determined upon the complaint of the mother, alleged father, child or the public authority chargeable by law with the support of the child. If paternity has been determined or has been acknowledged according to the laws of this State, the liabilities of the father may be enforced in the same or other proceedings by the mother, ~~the~~ child or the public authority ~~which that~~ has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, ~~necessary~~ support or funeral expenses; and by other persons including private agencies to the extent that they have furnished the reasonable expenses of pregnancy, confinement, education, ~~necessary~~ support or funeral expenses. Chapter 7, subchapter I-A applies to an award of past support, which is calculated by applying the current child support guidelines to the period for which past support is owed. ~~Aid to Families with Dependent Children benefits expended, pursuant to Title 22, chapter 1053, on behalf of the mother by the public authority shall be considered necessary support for the child.~~

Sec. A-4. 19 MRSA §§312 and 315, as enacted by PL 1989, c. 834, Pt. A, are amended to read:

§312. Application

Notwithstanding any other provisions of law, this subchapter applies to any court action or administrative proceeding in which a child support order is issued or modified under this Title or Title 22 and to any court action or administrative proceeding in which past support is awarded.

§315. Rebuttable presumption

In any proceeding to establish or modify child support, or to establish an award for past support, there is a rebuttable presumption that the parental support obligation derived from the support guidelines is the amount ordered to be paid, unless support is established under section 317. The court shall review the adequacy of a child support amount agreed to by the parties with reference to the parental support obligation.

Sec. A-5. 19 MRSA §316, sub-§1-A is enacted to read:

1-A. Past support. This subchapter applies to an award of past support, which is calculated by applying the current support guidelines to the period for which past support is owed.

Sec. A-6. 19 MRSA §446 is repealed.

Sec. A-7. 19 MRSA §448, as amended by PL 1991, c. 591, Pt. X, §2, is further amended to read:

§448. Enforcement of rights

The obligee may enforce the right of support against the obligor, pursuant to chapter 14-A, and the State or any political subdivision thereof may proceed on behalf of the obligee to enforce that right of support against the obligor. Whenever the State or a political subdivision thereof furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing ~~reimbursement~~ an award for past support and of obtaining continuing support. The obligee's right of support includes an independent right to seek appropriate attorney's fees for handling the action. An award of attorney's fees may be collected by any means available under the laws, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A.

Sec. A-8. 19 MRSA §522, sub-§4, as enacted by PL 1991, c. 256, is amended to read:

4. Past support. Order the alleged father to ~~reimburse~~ pay past support to the mother or the department or other payor of public assistance, as applicable, for the past support, birth expenses and medical expenses incurred on behalf of the child to the time of trial and grant judgment to the mother or the department or other payor of public assistance, as applicable, ~~in the amount of those expenses,~~ with execution to issue immediately. A judgment for past support is calculated by applying the current child support guidelines to the period for which past support is owed;

Sec. A-9. 19 MRSA §1111, sub-§2, as amended by PL 1995, c. 412, §7, is further 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 Probate 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 Probate 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. A-10. 19 MRSA §1111, sub-§2-A, as enacted by PL 1995, c. 412, §8, is repealed and the following enacted in its place:

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 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.

A. The waiver of notice must indicate that the putative father or legal father understands that the waiver of notice operates as a consent to adoption or a surrender and release for the purposes of adoption for any adoption of the child, and that by signing the waiver of notice the putative father or legal father voluntarily gives up any rights to the named child.

B. The waiver of notice may state that the putative father or legal father neither admits nor denies paternity.

C. The legal father shall attach to the waiver of notice an affidavit stating that, although he is the legal father, he is not the biological father.

Sec. A-11. 19 MRSA §1111, sub-§7, as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

7. Adoptive study. Upon order of the court, ~~either through its own caseworkers or through a licensed child placing agency,~~ the department or licensed child placing agency shall furnish studies and reports relevant to the proceedings.

Sec. A-12. 19 MRSA §1112, sub-§1, as amended by PL 1995, c. 412, §10, is further 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 interest of the child, the parents or surviving parent of a child may at any time after the child's birth:

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. A-13. 19 MRSA §1112, sub-§8, as enacted by PL 1995, c. 412, §14, is repealed and the following enacted in its place:

8. Reciprocity. The court shall accept a consent or a surrender and release by a court of comparable jurisdiction in another state if the court receives an affidavit from a member of that state's bar or a certificate from that court of comparable jurisdiction stating that:

A. The person executing the consent or the surrender and release followed the procedure required to make a consent or a surrender and release valid in the state in which it was executed; and

B. The court of comparable jurisdiction advised the person executing the consent or the surrender and release of the consequences of the consent or the surrender and release under the laws of the state in which the consent or the surrender and release was executed.

Sec. A-14. 19 MRSA §1129, sub-§4, as amended by PL 1995, c. 412, §26, is further amended to read:

4. Notice upon completion. Upon 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 completion by regular mail at their last known address. A notice under this subsection is not required to a biological parent who is also a petitioner. 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 completion by regular mail at their last known address. Actual receipt of the notice is not a precondition of completion and does not affect the rights or responsibilities of adoptees or adoptive parents.

Sec. A-15. 19 MRSA c. 25 is enacted to read:

CHAPTER 25

FAMILY LAW ADVISORY COMMISSION

§2001. Commission established

The Family Law Advisory Commission, established in Title 5, section 12004-I, subsection 52-B and referred to in this chapter as the "commission," is created for the purpose of conducting a continuing study of the family laws of this State.

§2002. Membership; terms; vacancies

1. Membership. The commission is composed of 9 members appointed by the Chief Justice of the Supreme Judicial Court. The members must have experience in practicing family law or be knowledgeable about family law. The membership of the commission must include:

- A. An active Superior Court Justice;
- B. An active District Court Judge;
- C. A current Probate Court Judge;
- D. Two members of the family law section of the Maine State Bar Association, or its successor;
- E. A representative of a legal services organization;
- F. A representative of the department; and
- G. Two public members, at least one of whom has experience in providing mental health services.

2. Terms. A member is appointed for a term of 2 years and may be reappointed.

3. Vacancies. In the event of the death or resignation of a member, the Chief Justice of the

Supreme Judicial Court shall appoint a qualified person for the remainder of the term.

§2003. Consultants; experts

Whenever it considers appropriate, the commission shall seek the advice of consultants or experts, including representatives of the legislative and executive branches of State Government, in fields related to its duties.

§2004. Duties

1. Examine, evaluate and recommend. It is the duty of the commission:

- A. To examine the sections of this Title that pertain to family law and to draft amendments to those sections that the commission considers advisable;
- B. To evaluate the operation of this Title and to recommend amendments based on the evaluation;
- C. To examine current laws pertaining to family law pleadings and to recommend changes based on the examination; and
- D. To examine any other aspects of the State's family law, including substantive, procedural and administrative matters, that the commission considers relevant.

2. Propose changes. The commission may propose to the Legislature, at the start of each session, changes in family laws and in related provisions as the commission considers appropriate. The commission may also make recommendations to the Judicial Council, the Advisory Committee on Criminal Rules, the Advisory Committee on Civil Rules and to any other organization or committee whose affairs pertain to family law and its practice in this State.

§2005. Organization; staff

The Chief Justice of the Supreme Judicial Court shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer from its membership and adopt rules governing the administration of the commission and its affairs. The commission shall maintain financial records as required by the State Auditor.

§2006. Federal funds

The commission may accept federal funds on behalf of the State.

Sec. A-16. Study. The Family Law Advisory Commission shall conduct a study of the statutes and

practices of awards and allocations concerning parental rights and responsibilities.

1. Content of study. The study must include an examination of the following:

- A. Equal consideration and treatment of mothers and fathers as primary care providers;
- B. Appropriate consideration and consequences of the relocation or intended relocation of the primary care provider to a place that disrupts the child's relationship with the other parent as well as the child's relationship with friends, school, community and other family;
- C. Whether the importance of the roles of the mother and the father in a child's life is recognized in law and practice; and
- D. Any other issues relating to parental rights and responsibilities, including child support, visitation and enforcement of court orders concerning parental rights and responsibilities.

2. Study protocol. The Family Law Advisory Commission shall adopt a study protocol that allows contribution to the study process by members of the public, other interested persons and recognized experts.

3. Drafting assistance. The Family Law Advisory Commission may request assistance from the Legislative Council in drafting recommendations of legislation.

4. Report. The Family Law Advisory Commission shall submit a report, including any necessary implementing legislation, to the Legislature and the joint standing committee of the Legislature having jurisdiction over judiciary matters by December 15, 1996 for consideration in the First Regular Session of the 118th Legislature. The report must include a summary of the study process, a list of participants and any recommendations, including any necessary implementing legislation.

PART B

Sec. B-1. 19 MRSA, as amended, is repealed.

Sec. B-2. 19-A MRSA is enacted to read:

TITLE 19-A

DOMESTIC RELATIONS

PART 1

GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

§101. Definitions

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

1. Adult. "Adult" means a person who is 18 years of age or older.

2. Child. "Child" means a person who has not attained 18 years of age.

3. Commissioner. "Commissioner" means the Commissioner of Human Services, a designee or an authorized representative.

4. Department. "Department" means the Department of Human Services and its agents and authorized representatives.

5. Minor or minor child. "Minor" or "minor child" means a person who has not attained the age of 18 years.

6. Obligee. "Obligee" means any person to whom a duty of support is owed.

7. Obligor. "Obligor" means any person owing a duty of support.

8. Parent. "Parent" means the legal parent or the legal guardian when no legal parent exists.

9. Person. "Person" means an individual, trust, estate, partnership, association, company, corporation, political subdivision of the State or instrumentality of the State.

10. State. The term "state" means any state, territory or possession of the United States, the Commonwealth of Puerto Rico and the District of Columbia.

§102. Residency

The right to file a complaint or bring a petition under this Title may not be denied a person for failure to meet a residency requirement if the person is a member of the Armed Forces of the United States on active duty stationed in this State or the spouse of that member or a parent of a child of that member. The member is deemed to be a resident either of the county in which the military installation, or other place at which the member has been stationed, is located or of the county in which the member has sojourned.

§103. Jurisdiction

Except as otherwise expressly provided, the District Court has original jurisdiction, concurrent with the Superior Court, of all actions under this Title.

§104. Appeals

Appeals may be taken from orders under this Title as in other civil actions.

CHAPTER 3**ALTERNATIVE DISPUTE RESOLUTION****§251. Mediation**

1. Court authority to order mediation. The court may, in any case under this Title, at any time refer the parties to mediation on any issue.

2. Required mediation. Except as provided in paragraph B, prior to a contested hearing under chapter 27, chapter 29, chapter 55 or chapter 63 when there are minor children of the parties, the court shall refer the parties to mediation.

A. For good cause shown, the court, prior to referring the parties to mediation, may hear motions for temporary relief, pending final judgment on an issue or combination of issues for which good cause for temporary relief has been shown.

B. Upon motion supported by affidavit, the court may, for extraordinary cause shown, waive the mediation requirement under this subsection.

3. Mediated agreement. An agreement reached by the parties through mediation on issues must be reduced to writing, signed by the parties and presented to the court for approval as a court order.

4. No agreement; good faith effort required. When agreement through mediation is not reached on an issue, the court must determine that the parties made a good faith effort to mediate the issue before proceeding with a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, may dismiss the action or a part of the action, may render a decision or judgment by default, may assess attorney's fees and costs or may impose any other sanction that is appropriate in the circumstances.

5. Failure to appear. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

6. Waiver of mediation; questions of law. The court may hear motions to waive mediation in cases in which there are no facts at issue and all unresolved issues are questions of law.

§252. Referees

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 service. 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.

CHAPTER 5**FAMILY LAW ADVISORY COMMISSION****§351. Commission established**

The Family Law Advisory Commission, established in Title 5, section 12004-I, subsection 52-A and referred to in this chapter as the "commission," is created for the purpose of conducting a continuing study of the family laws of Maine.

§352. Membership; terms; vacancies

1. Membership. The commission is composed of 9 members appointed by the Chief Justice of the Supreme Judicial Court. The members must have experience in practicing family law or be knowledgeable about family law. The membership of the commission must include:

A. An active Superior Court Justice;

B. An active District Court Judge;

C. A current Probate Court Judge;

D. Two members of the family law section of the Maine State Bar Association, or its successor;

E. A representative of a legal services organization;

F. A representative of the department; and

G. Two public members, at least one of whom has experience providing mental health services.

2. Terms. A member is appointed for a term of 2 years and may be reappointed.

3. Vacancies. In the event of the death or resignation of a member, the Chief Justice of the Supreme Judicial Court shall appoint a qualified person for the remainder of the term.

§353. Consultants; experts

Whenever it considers appropriate, the commission shall seek the advice of consultants or experts, including representatives of the legislative and executive branches of State Government, in fields related to its duties.

§354. Duties

1. Examine, evaluate and recommend. It is the duty of the commission:

A. To examine the sections of this Title that pertain to family law and to draft amendments to those sections as the commission considers advisable;

B. To evaluate the operation of this Title and to recommend amendments based on the evaluation;

C. To examine current laws pertaining to family law pleadings and to recommend changes based on the examination; and

D. To examine any other aspects of Maine's family law, including substantive, procedural and administrative matters, that the commission considers relevant.

2. Propose changes. The commission may propose to the Legislature, at the start of each session, changes in the family laws and in related provisions as the commission considers appropriate. The commission may also make recommendations to the Judicial Council, the Advisory Committee on Criminal Rules, the Advisory Committee on Civil Rules and to any other organization or committee whose affairs pertain to family law and its practice in Maine.

§355. Organization; staff

The Chief Justice of the Supreme Judicial Court shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer from its membership and adopt rules governing the administration of the commission and

its affairs. The commission shall maintain financial records as required by the State Auditor.

§356. Federal funds

The commission may accept federal funds on behalf of the State.

PART 2

MARRIED PERSONS

CHAPTER 21

UNIFORM PREMARITAL AGREEMENT ACT

§601. Short title

This chapter is known and may be cited as the "Uniform Premarital Agreement Act."

§602. Definitions

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

1. Premarital agreement. "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

2. Property. "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

§603. Formalities

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

§604. Content

Parties to a premarital agreement may contract with respect to:

1. Rights and obligations of parties. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

2. Right to buy, sell, use property. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property;

3. Disposition of property. The disposition of property upon separation, marital dissolution, death or the occurrence or nonoccurrence of any other event;

4. Spousal support. The modification or elimination of spousal support;

5. Making of will. The making of a will, trust or other arrangement to carry out the provisions of the agreement;

6. Death benefit. The ownership rights in and disposition of the death benefit from a life insurance policy;

7. Choice of law. The choice of law governing the construction of the agreement; and

8. Other matter. Any other matter, including their personal rights and obligations, not in violation of public policy or a law imposing a criminal penalty.

The right of a child to receive support may not be adversely affected by a premarital agreement.

§605. Effect of marriage

A premarital agreement becomes effective upon the marriage of the parties.

§606. Effect of children

Except as otherwise provided in this section, an effective premarital agreement is void 18 months after the parties to the agreement become biological or adoptive parents or guardians of a minor. The premarital agreement is not void if, within the 18-month period, the parties sign a written amendment to the agreement either stating that the agreement remains in effect or altering the agreement. Sections 607 and 608 apply to any amendment under this section.

This section does not apply to premarital agreements executed on or after October 1, 1993.

§607. Amendment; revocation

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

§608. Enforcement

1. Not enforceable. A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

A. That party did not execute the agreement voluntarily; or

B. The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(1) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(2) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(3) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

2. Support required. If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

3. Unconscionability. An issue of unconscionability of a premarital agreement must be decided by the court as a matter of law.

§609. Enforcement; void marriage

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

§610. Limitation of actions

A statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. Equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§611. Application and construction

This Act must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

CHAPTER 23

MARRIAGE

SUBCHAPTER I

GENERAL PROVISIONS

§651. Recording of intentions

1. Place of recording. Residents of the State intending to be joined in marriage shall record notice of their intentions in the office of the clerk of the municipality in which each resides. If only one of the parties resides in the State, the parties shall record notice of their intentions in the office of the clerk of the municipality in which the resident party resides. If there is no clerk in the place of their residence, the notice must be filed with the clerk of an adjoining municipality. If both parties reside out of the State, they must record notice of their intentions in the office of the clerk of the municipality in which the parties propose to have the marriage solemnized.

2. Application. The parties wishing to record notice of their intentions of marriage shall submit an application for recording notice of their intentions of marriage. The application must include a signed certification that the information recorded on the application is correct and that the applicant is free to marry according to the laws of this State. The applicant's signature must be acknowledged before an official authorized to take oaths. Applications recording notice of intentions to marry must be open for public inspection in the office of the clerk.

3. Related parties. If the parties recording notice of their intentions to marry are related as described in section 701, subsection 2, the parties shall submit to the clerk, at the time of recording their intentions to marry, a certificate from a physician stating that the parties have received genetic counseling from the physician. The physician making the certification required by this subsection shall sign the certificate.

4. Prior marriages. Persons recording notice of intention to marry, either of whom has been previously married, shall submit with the application a certificate or certified copy of the divorce decree or annulment of the last marriage or the death record of the last spouse. If both have been previously married, both shall submit the certificates or certified copies. The clerk shall make a notation on the reverse side of the application under subsection 2 showing the title and location of the courts, the names of the parties to the proceeding for the divorces or annulments and the date when the decrees became absolute. In the case of a death of a former spouse, the clerk shall show the name of the deceased along with the date and place of death.

5. Recognition of foreign divorces. A record of divorce from another state or foreign country is evidence of divorce. If the record is not in English, the record must be translated into English by a disinterested 3rd person at the parties' expense.

6. Resident defined. For the purposes of this chapter, "resident" means a person whose habitation is fixed in a place within this State and to which that person, whenever temporarily absent, has the intention to return. A person is a resident of a municipality if the place of habitation is within that particular municipality. The clerk of a municipality shall consider a person who qualifies as a resident under Title 21-A, section 112 for voting purposes a resident for the purposes of this chapter.

§652. Issuance of marriage license

1. Marriage license issued. On and after the 3rd day from the filing of notice of intentions of marriage, except as otherwise provided, the clerk shall deliver to the parties a marriage license specifying the time when the intentions were recorded.

2. Marriage license to nonresidents. Before issuing a marriage license to a person who resides and intends to continue to reside outside the State, the clerk shall require affidavits or other evidence sufficient to satisfy the clerk that the person is not prohibited to marry by the laws of the jurisdiction in which that person resides.

3. Void after 90 days. The license is void if not used within 90 days from the day the intentions were filed in the offices of the municipal clerks as specified in section 651.

4. Expedited procedure. If the parties believe that the intended marriage should be solemnized without delay, they may file an application with the Probate Court, the District Court, the Superior Court or the Supreme Judicial Court requesting a certificate from the court. Except when the application is filed with the Supreme Judicial Court, the application must be filed in the division or county in which one or both of the parties reside, or, if neither is a resident, in which the marriage will be solemnized.

A. The application must be filed by:

- (1) Both parties when both parties are residents of this State;
- (2) Both parties when neither is a resident of this State; or
- (3) The party residing in this State if only one party is a resident of this State.

B. The application must be accompanied by a fee of \$10, payable to the court with which the application is filed.

C. After hearing the evidence that is presented, the judge or justice may grant a certificate stating that in the opinion of the court it is expedient that

the intended marriage be solemnized without delay.

D. Upon presentation of the certificate or certified copy of the certificate, the clerk of each municipality in which the intention to be joined in marriage has been filed shall at once issue the license as prescribed in this section and section 656.

In extraordinary or emergency cases when the death of either party is imminent, upon the authoritative request of a minister, clergy, priest, rabbi or attending physician, the clerk of the municipality in which the intention to be joined in marriage has been filed shall at once issue the license as prescribed in this section and section 656.

5. Informational brochure. A marriage license may not be issued until a brochure prepared by the Department of Mental Health and Mental Retardation concerning the effects of alcohol and drugs on fetuses has been given to both parties. The department is responsible for making the brochures available to municipal clerks for distribution.

6. Related parties. A marriage license may not be issued to parties related as described in section 701, subsection 2, unless the clerk has received from the parties the physician's certificate of genetic counseling required by section 651.

7. Parties under 18 years of age. A marriage license may not be issued to persons under 18 years of age without the written consent of their parents, guardians or persons to whom a court has given custody. In the absence of persons qualified to give consent, the judge of probate in the county where each minor resides may grant consent after notice and opportunity for hearing. When 2 licenses are required and when either or both applicants for a marriage license are under the ages specified in this section, the written consent must be given for the issuance of both licenses in the presence of the clerk issuing the licenses or by acknowledgment under seal filed with that clerk.

8. Parties under 16 years of age. The clerk may not issue a marriage license to a person under 16 years of age without:

A. The written consent of that minor's parents, guardians or persons to whom a court has given custody;

B. Notifying the judge of probate in the county in which the minor resides of the filing of this intention; and

C. Receipt of that judge of probate's written consent to issue the license. If written consent from

the judge has not been received by the 10th day from the filing of notice of the intention of marriage, consent is deemed to have been received and the clerk shall issue the license. The judge of probate, in the interest of public welfare, may order, after notice and opportunity for hearing, that a license not be issued.

§653. Filing of cautions

1. Filing; enter notice. A person who believes that parties are about to contract marriage when either of them can not lawfully do so may file a caution and the reasons for the caution in the office of the clerk where notice of their intentions is required to be filed. If either party applies to enter notice of their intentions, the clerk shall withhold the license until the judge of probate from the county involved approves the marriage.

2. Procedure. Before the judge of probate may approve a marriage, the court must give due notice and an opportunity to be heard to all concerned parties. The judge of probate shall determine whether the parties may lawfully contract marriage within 7 days unless the judge of probate certifies that further time is necessary for that purpose. In that case, a license must be withheld until the expiration of the certified time. The clerk shall deliver or withhold the license in accordance with the final decision of the judge of probate.

3. Judgment for costs. If the judge of probate determines that the parties may lawfully contract marriage, the judge shall enter judgment against the person filing the caution for costs and issue execution for costs.

§654. Record of marriages

1. Copy. Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by that person in conformity with the forms and instructions prescribed by the State Registrar of Vital Statistics pursuant to Title 22, section 2701.

2. Return of original; copies. The person who solemnized the marriage shall return each original certificate to the clerk who issued the certificate within 7 working days following the date on which the marriage is solemnized by that person. If the marriage was solemnized in a municipality other than the place or places where the parties to the marriage reside, that person shall return a copy of the certificate, or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized.

3. Statement including officiant and witnesses. Each certificate and copy returned must contain a statement giving the names of the parties

united in marriage, place and date of the marriage, the signature of the person by whom the marriage was solemnized and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which the marriage was solemnized, the residence of the person who solemnized the marriage and:

- A. The date ordained or authorized by a religious faith to perform marriages;
- B. The date the notary public's commission expires; or
- C. The date the lawyer was admitted to the Maine Bar.

4. Recorded by clerk. The clerk shall record all certificates or copies returned under this section.

§655. Authorization; penalties

1. Persons authorized to solemnize marriages. The following may solemnize marriages in this State:

- A. If a resident of this State:
 - (1) A justice or judge;
 - (2) A lawyer admitted to the Maine Bar;
 - (3) A justice of the peace; or
 - (4) A notary public under Title 4, chapter 19; and
- B. Whether a resident or nonresident of this State and whether or not a citizen of the United States:
 - (1) An ordained minister of the gospel;
 - (2) A cleric engaged in the service of the religious body to which the cleric belongs; or
 - (3) A person licensed to preach by an association of ministers, religious seminary or ecclesiastical body.

2. Enforcement. The State Registrar of Vital Statistics shall enforce this section as far as it comes within the state registrar's power and shall notify the district attorney of the county in which the penalty should be enforced of the facts that have come to the state registrar's knowledge. Upon receipt of this notice, the district attorney shall prosecute the person who violated this section.

§656. License

1. Contents of license. A marriage license must have conspicuously printed on it the following words:

"The laws of Maine provide that only authorized persons may solemnize marriages in this State."

2. Completed license; ceremony performed.

Each marriage license issued must be completed and the certification statement signed by both parties to the intended marriage. The completed license or licenses must be delivered by the parties to the person solemnizing the marriage. Upon completion of the solemnization, which must be performed in the presence of at least 2 witnesses other than the person officiating, the person officiating and the 2 witnesses shall sign the license or licenses, which are then known as the marriage certificate or certificates.

§657. Lack of jurisdiction or authority

A marriage, solemnized before any known inhabitant of the State professing to be a justice, judge, justice of the peace or notary public, or an ordained or licensed minister of the gospel, is not void, nor is its validity affected by any want of jurisdiction or authority in the justice, judge, justice of the peace, notary or minister or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

§658. Quaker; Baha'i

A marriage solemnized among Quakers or Friends, in the form practiced in their meeting, or solemnized among members of the Baha'i faith according to the rules and principles of the Baha'i faith, is valid and not affected by this subchapter. The clerk or the keeper of the records of the meeting or ceremony in which a marriage is solemnized shall return evidence of the solemnization of the marriage as provided in section 654. A person who willfully neglects or refuses to perform the duty imposed upon that person by this section commits a civil violation for which a forfeiture not to exceed \$100 for each offense may be adjudged for the use of the municipality in which the offense occurred.

§659. Penalties

1. Solemnization without authorization. A person who solemnizes a marriage when not authorized to do so under section 655 commits a civil violation for which a forfeiture not to exceed \$100 for each offense may be adjudged. Forfeitures collected must be distributed to the municipality in which the offense occurred.

2. Solemnization contrary to chapter. A person who intentionally or knowingly joins persons in marriage in violation of this chapter commits a civil violation for which a forfeiture of \$100 may be adjudged. The person may not join persons in

marriage after being adjudicated as violating this subsection.

3. Violation by party to the marriage. A person who contracts a marriage in violation of this chapter commits a civil violation for which a forfeiture of \$100 may be adjudged. A person who makes false representations to obtain a marriage license or to cause the solemnization of marriage in violation of this chapter commits a civil violation for which a forfeiture of \$100 may be adjudged.

4. Violation by clerk. The clerk of a municipality who intentionally violates this chapter or falsely states the residence of either of the parties named in the license or certificate commits a civil violation for which a forfeiture of \$20 for each offense may be adjudged.

SUBCHAPTER II

RESTRICTIONS

§701. Prohibited marriages; exceptions

1. Marriage out of State to evade law. When residents of this State, with intent to evade this section and to return and reside here, go into another state or country to have their marriage solemnized there and afterwards return and reside here, that marriage is void in this State.

2. Prohibitions based on degrees of consanguinity; exceptions. This subsection governs marriage between relatives.

A. A man may not marry his mother, grand-mother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister, the daughter of his father's brother or sister or the daughter of his mother's brother or sister. A woman may not marry her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother, mother's brother, the son of her father's brother or sister or the son of her mother's brother or sister.

B. Notwithstanding paragraph A, a man may marry the daughter of his father's brother or sister or the daughter of his mother's brother or sister, and a woman may marry the son of her father's brother or sister or the son of her mother's brother or sister as long as, pursuant to sections 651 and 652, the man or woman provides the physician's certificate of genetic counseling.

3. Persons under disability. A person who is impaired by reason of mental illness or mental retardation to the extent that that person lacks

sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting marriage. For the purposes of this section:

A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and

B. "Mental retardation" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

4. Polygamy. A marriage contracted while either party is not divorced from a living wife or husband is void.

SUBCHAPTER III

VOID MARRIAGES AND ANNULMENT

§751. Certain marriages void without process

The following marriages are void and dissolved without legal process:

1. Solemnized in State. A marriage prohibited in section 701, if solemnized in this State; or

2. Final judgment. A marriage when there is an entry of a final judgment sentencing either party to imprisonment for life.

§752. Annulment of illegal marriages

1. Complaint; court order. When the validity of a marriage is doubted, either party may file a complaint for annulment. The court shall order the marriage annulled or affirmed according to the evidence. The court's order does not affect the rights of the defendant unless the defendant was actually notified of the action or answered the complaint.

2. Parental rights and responsibilities. The court entering an order for annulment may make an order awarding parental rights and responsibilities with respect to a minor child of the parties in accordance with chapter 55.

3. Name change. Upon the request of either spouse to change that person's own name, the court, when entering judgment for annulment:

A. Shall change the name of that spouse to a former name requested; or

B. May change the name of that spouse to any other name requested.

4. Finalization. The trial court may, upon motion for entry of final judgment during the

pendency of the appeal period, grant a final judgment of annulment between the parties if the court expressly finds that there is not just cause for delay and entry of judgment will not prejudice the legal or equitable rights of a party during the pendency of an appeal. The filing of a motion under this subsection does not stay an award of child or spousal support or parental rights and responsibilities, except by order of the court under the Maine Rules of Civil Procedure.

5. Annulment because of prior marriage.

When a marriage is annulled due to a prior marriage, and the party who was capable of contracting the 2nd marriage contracted the 2nd marriage in good faith, believing that the prior spouse was dead, the former marriage was void or a divorce had been decreed leaving the party to the former marriage free to marry again, that fact must be stated in the decree of nullity.

§753. Action to void marriage

If, after a marriage has been solemnized, the State Registrar of Vital Statistics determines that the parties are not eligible to be married because the age or other requirements provided in this chapter are not satisfied, the state registrar may file an action in District Court to void the marriage.

CHAPTER 25

RIGHTS OF MARRIED PERSONS

§801. Holding and disposing of property

A married person, widow or widower of any age may own in the person's own right real and personal estate acquired by descent, gift or purchase.

§802. Spouse's separate property

A person having property is not deprived of any part of that property by marriage, and a person acquires no right to any property of that person's spouse. A married person may release to that person's spouse the right to control that person's property or any part of it and to dispose of the income of the property for their mutual benefit, and may in writing revoke that right of control or disposal.

§803. Spouse's earnings

A married person may receive the wages of that person's personal labor not performed for that person's own family, maintain an action for those wages in that person's own name and hold them in that person's own right against that person's spouse or any other person.

§804. No liability for spouse's debts or torts; property subject to execution; partnerships

1. Liability for debts or torts. A married person is not liable for the debts of that person's spouse contracted before marriage nor for those contracted in the spouse's own name for any lawful purpose. A married person is not liable for that person's spouse's torts in which that person takes no part.

2. Partnerships. This section may not be construed to mean that a person is not liable for the debts, contracted in the name of the partnership, of a partnership between the person and the person's spouse or among the person, the spouse and 3rd persons. This section may not be construed to prohibit or limit the formation of a partnership between a husband and a wife or among a husband, wife and 3rd persons.

§805. Actions by or against spouse; arrest

A married person may prosecute and defend civil actions, either of tort or contract, in that person's own name without the joinder of that person's spouse, for the preservation and protection of that person's property and personal rights or for the redress of that person's injuries, as if unmarried, or may prosecute these actions jointly with that person's spouse. The person's spouse may not settle or discharge any of these actions or causes of action without the written consent of the person. Neither of them can be arrested on a writ of execution arising out of these actions or causes of action, nor may the spouse alone maintain an action respecting the person's property.

§806. Proceedings between husband and wife

1. Civil action against spouse. A wife may bring a civil action against her husband for the recovery, conveyance, transfer, payment or delivery to her of any property, real or personal or both, exceeding \$100 in value, standing in his name, or to which he has legal title, or that is in his possession or under his control, that in equity and good conscience belongs to her and that he neglects or refuses to convey, transfer, pay over or deliver to her, and upon proper proof may maintain this action. A husband has the same right to bring and maintain a civil action against his wife for the same purposes, subject to the same limitations.

2. Marriage not a bar; costs. Marriage is not a bar to the maintenance of a civil action by a wife against her husband or by a husband against his wife brought for the purposes in subsection 1. Costs may not be awarded against either party in these proceedings.

3. Defrauding creditors; dismissal of action. If it satisfactorily appears to the court on hearing that the party bringing the action has conveyed or transferred any of that party's property, real or personal, to

the other party to the action for the purpose of cheating, defrauding, hindering or delaying that party's creditors, the action must be dismissed.

4. Appeal. An appeal from any final judgment under this section may be taken to the law court as in other civil actions.

5. No survival of rights. There is no survival of the right to institute proceedings under this section, and if a wife or husband dies after the commencement of proceedings under this section and before the final determination and disposition of the proceedings, these proceedings must abate.

CHAPTER 27

JUDICIAL SEPARATION

§851. Judicial separation

1. Grounds. A person may file a petition for judicial separation if:

A. The person's spouse, without just cause, deserts the person, and the desertion has continued for at least 60 days immediately before the filing of the petition; or

B. The person, with just cause, is actually living apart from the spouse and has lived apart from the spouse for at least 60 days immediately before the filing of the petition.

If the person is mentally ill, the person's guardian or next friend may file the petition.

2. Place of filing. The person may file a petition for judicial separation in the county or judicial division in which either of the parties lives, except that if the petitioner has left the county or judicial division in which the parties lived together and the respondent still lives in that county or judicial division, the petitioner must file the petition in that county or judicial division. Notice must be given as the Maine Rules of Civil Procedure provide.

3. Order. The court may enter an order stating that the person is deserted or living apart and may prohibit the spouse from imposing any restraint on the petitioner's personal liberty during such time as the court may by order direct.

4. Mediation. The court shall order the parties to participate in mediation as provided in chapter 3.

5. Parental rights and responsibilities. Upon the petition of either spouse, or of the guardian or next friend of one of the parties who may be mentally ill, the court may make an order awarding parental rights and responsibilities with respect to a minor child of the parties in accordance with chapter 55.

6. Enforcement. The court may enforce obedience to its orders by appropriate process including remedies provided in chapter 65. Nothing in this section may preclude the court from incarcerating a spouse for nonpayment of child support, spousal support or attorney's fees in violation of a court order to do so.

7. Marriage settlement or contract not affected. An action under this section does not invalidate a marriage settlement or contract between the parties.

§852. Preliminary injunction, effect; attachment or trustee process

1. Issue of preliminary injunction. In all actions for judicial separation the clerk of the court, pursuant to order of the District Court or Superior Court, shall issue a preliminary injunction in the following manner.

A. The preliminary injunction must bear the signature or facsimile signature of the clerk, be under the seal of the court, contain the name of the court and the names of the parties and state the name and address of the plaintiff's attorney. The preliminary injunction may be obtained in blank from the clerk and must be filled out by the plaintiff's attorney. The plaintiff's attorney is responsible for serving this preliminary injunction, along with the summons and complaint, on the defendant.

B. The preliminary injunction must be directed to each party to the action and must contain the following orders:

(1) That each party is enjoined from transferring, encumbering, concealing, selling or otherwise disposing of the property of either or both of the parties, except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the court;

(2) That each party is enjoined from imposing restraint on the personal liberty of the other party or of a biological or adopted child of either or both of the parties; and

(3) That each party is enjoined from voluntarily removing the other party or a child of the parties from a policy of health insurance that provides coverage for the other party or the child of the parties.

C. The preliminary injunction must include the following statement:

"Warning

This is an official court order. If you disobey this order the court may find you in contempt of court.

This court order is effective until the earliest of the following:

- (1) The court revokes or modifies it;
- (2) A final divorce judgment or decree of judicial separation is entered; or
- (3) The action is dismissed."

D. The preliminary injunction is effective against the plaintiff upon the commencement of the action and against the defendant upon service of a copy of both the complaint and order in accordance with the Maine Rules of Civil Procedure. The plaintiff is deemed to have accepted service of the plaintiff's copy of the preliminary injunction and to have actual notice of its contents by filing or causing the complaint to be served. The plaintiff shall cause a copy of the preliminary injunction to be served upon the defendant with a copy of the summons and complaint.

E. The preliminary injunction has the force and effect of an order of a Judge of the Probate Court or District Court or Justice of Superior Court and is enforceable by all remedies made available by law, including contempt of court. The order remains in effect until entry of a final decree, until the case is dismissed or until otherwise ordered by the court.

2. Revocation or modification. A preliminary injunction may be revoked or modified after hearing for good cause shown. The party seeking to revoke or modify the preliminary injunction shall file a motion together with an affidavit that demonstrates the good cause necessary for revocation or modification.

A. Notwithstanding any law to the contrary, on 7 days' notice to the other party or on shorter notice as the court may order, either party subject to an order may appear and move the dissolution or modification of the order, and in that event the court shall proceed to hear and determine the motion as expeditiously as justice requires.

B. Mediation is not required before a hearing on a motion to revoke or modify a preliminary injunction except as directed by the court.

C. A preliminary injunction does not prejudice the rights of the parties or a child that are to be adjudicated at subsequent hearings in the proceeding and does not limit the power of the court

to issue other injunctive relief that may be proper under the circumstances.

D. A preliminary injunction terminates when:

- (1) The court revokes or modifies it;
- (2) A final divorce judgment or decree of judicial separation is entered; or
- (3) The action is dismissed.

3. Remedies. The court may enforce a preliminary injunction issued pursuant to this section:

A. By finding a person who disobeys or resists the injunction in contempt of court;

B. By requiring a person who disobeys or resists the injunction to pay the costs and attorney's fees that the other party incurred to enforce the preliminary injunction; or

C. By appropriate processes as in other actions.

The remedies provided in this subsection for enforcement of a preliminary injunction are in addition to any other civil or criminal remedies available, including civil contempt of court. The use of one remedy does not prevent the simultaneous or subsequent use of any other remedy.

4. Mutual order of protection or restraint. Orders issued pursuant to this section do not supersede orders issued pursuant to chapter 101.

5. Attachment of property; trustee process. Attachment of real or personal property or on trustee process may be used in connection with an action for judicial separation.

CHAPTER 29

DIVORCE

SUBCHAPTER I

GROUND AND PROCEDURES

§901. Action for divorce; procedures

1. Filing of complaint; grounds. A person seeking a divorce may file a complaint for divorce in the Superior Court or the District Court if:

A. The plaintiff has resided in good faith in this State for 6 months prior to the commencement of the action;

B. The plaintiff is a resident of this State and the parties were married in this State;

C. The plaintiff is a resident of this State and the parties resided in this State when the cause of divorce accrued; or

D. The defendant is a resident of this State.

The complaint must state one or more grounds listed in section 902, subsection 1.

2. Guardian ad litem. If the alleged cause is mental illness, as provided in section 902, subsection 1, paragraph I, the court shall appoint a guardian ad litem to represent the interests of the defendant.

3. Exclusion of public. In a divorce action, at the request of either party, personally or through that party's attorney, unless the other party who has entered an appearance objects personally or through that other party's attorney, the court shall exclude the public from the court proceedings.

If the court orders that the public is to be excluded, only the parties, their attorneys, court officers and witnesses may be present.

4. Corroborating witness not required. When the merits of a divorce action are not contested, whether or not an answer has been filed, there is no requirement that the testimony of the complaining party be corroborated by witnesses.

5. Fraud. The court may not grant a divorce when the parties seek to procure a divorce for fraudulent purposes.

6. Attorney's fees and costs. The court may order either party to pay the costs and attorney's fees of the other party in the defense or prosecution of a divorce. Attorney's fees awarded in the nature of support may be made payable immediately or in installments.

§902. Grounds; defenses

1. Grounds. A divorce may be granted for one of the following causes:

A. Adultery;

B. Impotence;

C. Extreme cruelty;

D. Utter desertion continued for 3 consecutive years prior to the commencement of the action;

E. Gross and confirmed habits of intoxication from the use of liquor or drugs;

F. Nonsupport, when one spouse has sufficient ability to provide for the other spouse and grossly, wantonly or cruelly refuses or neglects

to provide suitable maintenance for the complaining spouse;

G. Cruel and abusive treatment;

H. Irreconcilable marital differences; or

I. Mental illness requiring confinement in a mental institution for at least 7 consecutive years prior to the commencement of the action.

2. Irreconcilable differences; counseling. If one party alleges that there are irreconcilable marital differences and the opposing party denies that allegation, the court upon its own motion or upon motion of either party may continue the case and require both parties to receive counseling by a qualified professional counselor to be selected either by agreement of the parties or by the court. The counselor shall give a written report of the counseling to the court and to both parties. The failure or refusal of the party who denies irreconcilable marital differences to submit to counseling without good reason is prima facie evidence that the marital differences are irreconcilable.

3. Recrimination. Recrimination is a comparative rather than an absolute defense in a divorce action.

4. Condonation. Condonation of the parties is not an absolute defense to any action for divorce but is discretionary with the court.

§903. Preliminary injunction, effect; attachment or trustee process

1. Issue of preliminary injunction. In all actions for divorce or for spousal or child support following divorce by a court that lacked personal jurisdiction over the absent spouse, the clerk of the court, pursuant to order of the District Court or Superior Court, shall issue a preliminary injunction in the following manner.

A. The preliminary injunction must bear the signature or facsimile signature of the clerk, be under the seal of the court, contain the name of the court and the names of the parties and state the name and address of the plaintiff's attorney. The preliminary injunction may be obtained in blank from the clerk and must be filled out by the plaintiff's attorney. The plaintiff's attorney is responsible for serving this preliminary injunction, along with the summons and complaint, on the defendant.

B. The preliminary injunction must be directed to each party to the action and must contain the following orders:

(1) That each party is enjoined from transferring, encumbering, concealing, selling or otherwise disposing of the property of either or both of the parties, except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the court;

(2) That each party is enjoined from imposing restraint on the personal liberty of the other party or of a biological or adopted child of either or both of the parties; and

(3) That each party is enjoined from voluntarily removing the other party or a child of the parties from a policy of health insurance that provides coverage for the other party or the child of the parties.

C. The preliminary injunction must include the following statement:

"Warning

This is an official court order. If you disobey this order the court may find you in contempt of court.

This court order is effective until the earliest of the following:

(1) The court revokes or modifies it;

(2) A final divorce judgment or decree of judicial separation is entered; or

(3) The action is dismissed."

D. The preliminary injunction is effective against the plaintiff upon the commencement of the action and against the defendant upon service of a copy of both the complaint and order in accordance with the Maine Rules of Civil Procedure. The plaintiff is deemed to have accepted service of the plaintiff's copy of the preliminary injunction and to have actual notice of its contents by filing or causing the complaint to be served. The plaintiff shall cause a copy of the preliminary injunction to be served upon the defendant with a copy of the summons and complaint.

E. The preliminary injunction has the force and effect of an order of a Judge of the Probate Court or District Court or Justice of Superior Court and is enforceable by all remedies made available by law, including contempt of court. The order remains in effect until entry of a final decree, until the case is dismissed or until otherwise ordered by the court.

2. Revocation or modification. A preliminary injunction may be revoked or modified after hearing for good cause shown. The party seeking to revoke or modify the preliminary injunction shall file a motion together with an affidavit that demonstrates the good cause necessary for revocation or modification.

A. Notwithstanding any law to the contrary, on 7 days' notice to the other party or on shorter notice as the court may order, either party subject to an order may appear and move the dissolution or modification of the order, and in that event the court shall proceed to hear and determine the motion as expeditiously as justice requires.

B. Mediation is not required before a hearing on a motion to revoke or modify a preliminary injunction except as directed by the court.

C. A preliminary injunction does not prejudice the rights of the parties or a child that are to be adjudicated at subsequent hearings in the proceeding and does not limit the power of the court to issue other injunctive relief that may be proper under the circumstances.

D. A preliminary injunction terminates when:

(1) The court revokes or modifies it;

(2) A final divorce judgment or decree of judicial separation is entered; or

(3) The action is dismissed.

3. Remedies. The court may enforce a preliminary injunction issued pursuant to this section:

A. By finding a person who disobeys or resists the injunction in contempt of court;

B. By requiring a person who disobeys or resists the injunction to pay the costs and attorney's fees that the other party incurred to enforce the preliminary injunction; or

C. By appropriate processes as in other actions.

The remedies provided in this subsection for enforcement of a preliminary injunction are in addition to any other civil or criminal remedies available, including civil contempt of court. The use of one remedy does not prevent the simultaneous or subsequent use of any other remedy.

4. Mutual order of protection or restraint. Orders issued pursuant to this section do not supersede orders issued pursuant to chapter 101.

5. Attachment of property; trustee process. Attachment of real or personal property or on trustee process may be used in connection with an action for

divorce or spousal or child support following divorce by a court that lacked personal jurisdiction over the absent spouse.

6. Application. The injunction authorized in this section does not apply to post-divorce actions.

§904. Orders pending divorce

In accordance with section 251, subsection 2, pending a divorce action, the court may:

1. Attorney's fees. Order either spouse to pay to the other spouse, or to the attorney for the other spouse, sufficient money for the defense or prosecution of the action;

2. Support. Make reasonable provision for either spouse's separate support, on a motion for which costs and attorney's fees may be ordered;

3. Minor children. Enter an order for the parental rights and responsibilities with respect to the minor children of the parties in accordance with chapter 55;

4. Enforcement. Enforce obedience by appropriate processes on which costs and attorney's fees are taxed as in other actions;

5. Determine possession. Determine the possession of owned or rented real and personal property pending the final divorce decree; or

6. Free from restraint. On motion of either spouse, prohibit a spouse from imposing restraint on the moving spouse's personal liberty. This subsection does not preclude the court from incarcerating either spouse for nonpayment of child support, spousal support or attorney's fees in violation of a court order to do so.

§905. Investigation when custody of children involved

Whenever in a divorce action the custody of a minor child is involved, the court may request the department to investigate conditions and circumstances of the child and the child's parents. Upon completion of the investigation, the department shall submit a written report to the court and to counsel of record at least 3 days before the date of hearing. The report may not be further copied or distributed by anyone. A person who violates a provision of this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. Upon request of an interested party, the court shall require the person making the report to testify at the time of hearing. Whoever participates in making a report under this section or participates in a judicial proceeding as a result of the report is immune

from civil or criminal liability, unless that person acted in bad faith or with malicious purpose.

If the court requests an investigation for purposes other than suspected abuse or neglect as defined in Title 22, chapter 1071, the court shall order either or both parties to pay to the department part or all of the costs of services under this chapter, unless the court has made a finding of inability to pay. Revenue from investigations or services provided under this chapter are dedicated to the department to defray the cost of these services.

§906. Certain divorces validated

1. Writ of attachment. All divorces already granted in this State on libels inserted in a writ of attachment, and otherwise valid except for the want of attachment nominal or otherwise upon the writ, are validated.

2. Pendency of another claim. All judgments or orders already entered granting a divorce, annulment, disposition of property under section 953 or former Title 19, section 722-A or other disposition, award or division of property incident upon a divorce or annulment, and otherwise final except for the pendency of another claim or counterclaim in the same action, are declared final, nonappealable and effective for all purposes as of the date of entry of the judgment or order. This subsection does not apply to any judgment for divorce, annulment or property disposition in which the appeal period, including any extensions, has commenced but has not expired as of June 30, 1981.

3. Finalization. In an action for divorce under section 902, the trial court may, upon motion for entry of final judgment during the pendency of the appeal period, grant a final judgment of annulment or divorce between the parties if the court expressly finds that there is not just cause for delay and entry of judgment will not prejudice the legal or equitable rights of a party during the pendency of an appeal. The filing of a motion under this subsection does not stay an award of child or spousal support or parental rights and responsibilities, except by order of the court under the Maine Rules of Civil Procedure.

§907. Out-of-state divorces

When residents of the State go out of the State for the purpose of obtaining a divorce for causes that occurred here while the parties lived here or that do not authorize a divorce here, and a divorce is thus obtained, the divorce is void in this State. In all other cases, a divorce decreed out of the State according to the law of the place, by a court having jurisdiction of the cause and of both parties, is valid here.

The validity of a custody determination contained in or ancillary to a valid divorce decree granted by another state is governed by the Uniform Child Custody Jurisdiction Act.

SUBCHAPTER II

SPOUSAL SUPPORT AND PROPERTY RIGHTS

§951. Spousal support

1. Factors. The court shall consider the following factors when determining an award of spousal support:

- A. The length of the marriage;
- B. The ability of each party to pay;
- C. The age of each party;
- D. The employment history and employment potential of each party;
- E. The income history and income potential of each party;
- F. The education and training of each party;
- G. The provisions for retirement and health insurance benefits of each party;
- H. The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- I. The health and disabilities of each party;
- J. The tax consequences of a spousal support award;
- K. The contributions of either party as homemaker;
- L. The contributions of either party to the education or earning potential of the other party;
- M. Economic misconduct by either party resulting in the diminution of marital property or income;
- N. The standard of living of the parties during the marriage; and
- O. Any other factors the court considers appropriate.

2. Real estate. The court may order part of the obligated party's real estate and, if necessary, the rents and profits from that real estate to be assigned and set out to the other party for life.

3. Alternative to spousal support. Instead of spousal support, the court may order either party to pay a specific sum to the other party, as the court may direct.

4. Modification. The court, at any time, may alter or amend a decree for spousal support or specific sum when it appears that justice requires it, except that a court may not increase the spousal support if the original decree prohibits an increase. In making an alteration or amendment, the court shall consider the factors listed in subsection 1.

5. Enforcement. The court may use all necessary legal provisions to enforce its decrees.

6. Limitations. This section does not limit the court, by full or partial agreement of the parties or otherwise, from awarding spousal support for a limited period, from awarding spousal support that may not be increased regardless of subsequent events or conditions or from otherwise limiting or conditioning the spousal support award in any manner or term that the court considers just.

§952. Payment of spousal support, fees and support

1. Definition. As used in this section, "decree of spousal support, support or costs" means a decree or order:

- A. For spousal support or payment of money instead of spousal support;
- B. For support of children;
- C. For support pending a divorce action;
- D. For payment of related attorney's fees; or
- E. For alteration of an existing decree or order for the custody or support of a child.

2. Order pending petition. Pending a petition to enforce a decree of spousal support, support or costs and after notice and opportunity for a hearing, the court may order either spouse to pay to the other spouse or to the other spouse's attorney sufficient money for the prosecution of or defense against the petition.

3. Attorney's fees. When making a final decree, the court may order a party to pay reasonable attorney's fees. Attorney's fees awarded in the nature of support may be made payable immediately or in installments.

4. Enforcement. The court may enforce an order as provided under chapter 65.

§953. Disposition of property

1. Disposition. In a proceeding for a divorce, for legal separation or for disposition of property following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse the spouse's property and shall divide the marital property in proportions the court considers just after considering all relevant factors, including:

A. The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

B. The value of the property set apart to each spouse; and

C. The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live in the home for reasonable periods to the spouse having custody of the children.

2. Definition. For purposes of this section, "marital property" means all property acquired by either spouse subsequent to the marriage, except:

A. Property acquired by gift, bequest, devise or descent;

B. Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise or descent;

C. Property acquired by a spouse after a decree of legal separation;

D. Property excluded by valid agreement of the parties; and

E. The increase in value of property acquired prior to the marriage.

3. Acquired subsequent to marriage. All property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation is presumed to be marital property regardless of whether title is held individually or by the spouses in some form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety or community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection 2.

4. Disposition of marital property. If both parties to a divorce action also request the court in writing to order disposition of marital property acquired by either or both of the parties to the divorce

prior to January 1, 1972, or nonmarital property owned by the parties to the divorce action, the court shall also order disposition in accordance with subsection 1.

5. Decree contents. If the final divorce decree disposes of real property, it must name the party or parties responsible for preparing and recording the decree of divorce or abstract of the decree and paying the recording fee after the clerk has prepared or approved the abstract. The decree may name different parties to be responsible for different parcels.

6. Nonowner spouse claims. Notwithstanding the actual notice provisions of Title 14, section 4455 or any other laws, a claim of a nonowner spouse to real estate as "marital property," as defined in this section, does not affect title to the real estate of the owner spouse until the nonowner spouse records in the appropriate registry of deeds either:

A. A copy of the divorce complaint as filed in court;

B. A clerk's certificate of the divorce complaint, as described in Title 14, section 4455, subsection 2; or

C. A decree or abstract of the decree as described in this section.

This recording requirement applies to all divorce proceedings in this State or in any other jurisdiction.

7. Decree or abstract as deed. All rights acquired under former Title 19, section 721 or 723 on or before December 31, 1971 and all rights acquired under this section by a party in the real estate of the other party are effective against a person when the decree of divorce or an abstract of the decree is filed in the registry of deeds for the county or registry district where the real estate is situated. The abstract must contain the names of the parties, the date of the decree and the court that issued the decree. The failure of a party to record the decree or an abstract of the decree within a time period prescribed by former Title 19, section 725 does not affect the rights of that party as against the other party or the other party's heirs or devisees. The recording of the decree or abstract of the decree has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract of the decree, whether the interest is in fee or by statute.

8. Out-of-state divorce decrees. When a divorce has been granted out of the State, the plaintiff, or the plaintiff's attorney, shall cause a duly authenticated copy of the order to be recorded with the register of deeds in each of the counties where the real estate or any part of the real estate is situated. The appropriate recording fee must be paid prior to the recording.

9. Omitted property. If a final divorce decree fails to set apart or divide marital property over which the court had jurisdiction, the omitted property is deemed held by both parties as tenants in common. On the motion of either party, the court may set aside or divide the omitted property between the parties, as justice may require.

SUBCHAPTER III

PARENTAL RIGHTS AND RESPONSIBILITIES

§1001. Parental rights and responsibilities

The court entering an order for divorce may make an order awarding parental rights and responsibilities with respect to a minor child of the parties in accordance with chapter 55.

SUBCHAPTER IV

CHANGE OF NAME

§1051. Name change

Upon the request of either spouse to change that person's own name, the court, when entering judgment for divorce:

1. Former name. Shall change the name of that spouse to a former name requested; or

2. Any other name requested. May change the name of that spouse to any other name requested.

PART 3

PARENTS AND CHILDREN

CHAPTER 51

GENERAL PROVISIONS

§1501. Definitions

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

1. Allocated parental rights and responsibilities. "Allocated parental rights and responsibilities" means that responsibilities for the various aspects of a child's welfare are divided between the parents, with the parent allocated a particular responsibility having the right to control that aspect of the child's welfare. Responsibilities may be divided exclusively or proportionately. Aspects of a child's welfare for which responsibility may be divided include primary physical residence, parent-child contact, support, education, medical and dental care, religious upbringing, travel boundaries and expenses and any other aspect of parental rights and responsibilities. A

parent allocated responsibility for a certain aspect of a child's welfare may be required to inform the other parent of major changes in that aspect.

2. Child support. "Child support" means money paid directly to a parent, to another person or agency awarded parental rights and responsibilities with respect to a child or to the department on behalf of a child receiving public assistance and medical or dental insurance coverage provided on behalf of a child pursuant to court order.

3. Domestic abuse. "Domestic abuse" means abuse as defined in section 4002.

4. Reasonable cost health insurance. "Reasonable cost health insurance" means health insurance that is employment-related or other group health insurance.

5. Shared parental rights and responsibilities. "Shared parental rights and responsibilities" means that most or all aspects of a child's welfare remain the joint responsibility and right of both parents, so that both parents retain equal parental rights and responsibilities, and both parents confer and make joint decisions regarding the child's welfare.

6. Sole parental rights and responsibilities. "Sole parental rights and responsibilities" means that one parent is granted exclusive parental rights and responsibilities with respect to all aspects of a child's welfare, with the possible exception of the right and responsibility for support.

§1502. Either parent dead or guilty of abandonment, rights devolve on other

If one of the parents of a minor child is dead or has abandoned the child, all parental rights respecting the child devolve upon the other parent.

§1503. Rights of children born out of wedlock

A child born out of wedlock is the child of that child's biological parents and is entitled to the same legal rights as a child born in lawful wedlock, except as otherwise expressly provided by statute.

§1504. Person's duty of support

A person shall support that person's child and that person's spouse when in need.

§1505. Extent of duties of support

An obligor present or resident in this State has the duty of support as defined in this chapter regardless of the presence or residence of the obligee.

§1506. Public assistance recipients' rights of privacy

When the department seeks to establish paternity of a dependent child, any inquiry about prior or current sexual activity of a recipient of public assistance must be limited to that necessary to resolve a genuine dispute about the parentage of a child. When a custodial mother has informed the department that a particular man is the father of her child, the department may make no further inquiry into her personal life unless the man so identified has denied that he is the father of that child or he refuses to cooperate.

§1507. Appointment of guardian ad litem in contested proceedings

1. Guardian ad litem; appointment. In contested proceedings under sections 904 and 1653 in which a minor child is involved, the court may appoint a guardian ad litem for the child. The appointment may be made at any time, but the court shall 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 to which a guardian ad litem may assist in providing information concerning the best interest of the child;
- F. Whether the family has experienced a history of domestic abuse;
- G. Abuse of the child by one of the parties; and
- H. Other factors the court determines relevant.

At the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

2. Qualifications. A guardian ad litem appointed on or after September 1, 1997 must meet the qualifications established by the Supreme Judicial Court.

3. Duties. The guardian ad litem has both mandatory and optional duties.

A. A guardian ad litem shall:

- (1) Interview the child with or without another person present;
- (2) Have face-to-face contact with the child within 7 days of appointment by the court and at least once every 3 months after appointment; and
- (3) 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.

B. The court shall specify the optional duties of the guardian ad litem. The optional duties of the guardian ad litem may include:

- (1) Interviewing the parents, teachers and other people who have knowledge of the child or family;
- (2) Reviewing mental health, medical and school records of the child;
- (3) Reviewing mental health and medical records of the parents;
- (4) Having qualified people perform medical and mental evaluations of the child;
- (5) Having qualified people perform medical and mental evaluations of the parents;
- (6) Procuring counseling for the child;
- (7) Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;
- (8) Subpoenaing witnesses and documents and examining and cross-examining witnesses;
- (9) Serving as a contact person between the parents and the child; or
- (10) Other duties that the court determines necessary, including, but not limited to, filing pleadings.

If, in order to perform the duties, the guardian ad litem 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 must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers.

4. Best interest of the child. The guardian ad litem shall use the standard of the best interest of the child as set forth in section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, 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 need 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.

5. Written report. A written report of a guardian ad litem may be admitted as evidence in the proceeding for which the guardian ad litem was appointed only if the party seeking the admission of the report has furnished a copy to all parties at least 14 days prior to the hearing. The report may not be admitted as evidence without the testimony of the guardian ad litem if a party objects to the admittance of the report at least 7 days prior to the hearing.

6. Court's agent. A person serving as a guardian ad litem under this section acts as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the guardian ad litem.

7. Payment for services. Payment for the services of the guardian ad litem is the responsibility of the parties, as ordered by the court. In determining the responsibility for payment, the court shall consider:

- A. The income of the parties;
- B. The marital and nonmarital assets of the parties;
- C. The division of property made as part of the final divorce;
- D. Which party requested appointment of a guardian ad litem; and
- E. Other relevant factors.

8. Notice. A guardian ad litem must be given notice of all civil or criminal hearings and proceedings, including, but not limited to, grand juries, in which the child is a party or a witness. The guardian ad litem shall protect the best interests of the child in those hearings and proceedings, unless otherwise ordered by the court.

§1508. Actions

An action under this Part may be commenced by civil summons without an order of service from the

court. The Supreme Judicial Court shall prescribe by general rule the procedure for that civil action.

CHAPTER 53

PATERNITY

SUBCHAPTER I

UNIFORM ACT ON PATERNITY

§1551. Short title

This subchapter is known and may be cited as the "Uniform Act on Paternity."

§1552. Obligations of father

The father of a child who is or may be born out of wedlock is liable to the same extent as the father of a child born in wedlock, whether or not the child is born alive, for the reasonable expense of the mother's pregnancy and confinement and for the education, support and funeral expenses of the child, and reasonable attorney's fees for the prosecution of paternity proceedings.

§1553. Enforcement

Paternity may be determined upon the complaint of the mother, the alleged father, the child or the public authority chargeable by law with the support of the child. If paternity has been determined or has been acknowledged according to the laws of this State, the liabilities of the father may be enforced in the same or other proceedings by the mother, the child or the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support or funeral expenses, and by other persons, including private agencies, to the extent that they have furnished the reasonable expenses of pregnancy, confinement, education, support or funeral expenses. Chapter 63 applies to an award of past support, which is calculated by applying the current child support guidelines to the period for which past support is owed.

In execution of the powers given the court under this subchapter, the court may employ any compulsory process that it determines proper, by execution, attachment or other effectual form, on which costs are taxed as in other actions. The court may enforce a support order established under this subchapter as provided in chapter 65. A determination or modification of child support under this section must comply with chapter 63.

§1554. Limitation on recovery from father

The father's liabilities for past education and support are limited to a period of the 6 years immediately preceding the commencement of an action.

A complainant may commence an action at any time prior to the child's 18th birthday.

§1555. Limitations on recovery from father's estate

The obligation of the estate of the father for liabilities under this subchapter are limited to amounts accrued prior to his death and sums that may be payable for dependency under other laws.

§1556. Remedies

The Superior Court or District Court has jurisdiction over an action under this subchapter and all remedies for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, support or funeral expenses for legitimate children apply. The court has continuing jurisdiction to modify or revoke a judgment for future education and support. All remedies under the Uniform Interstate Family Support Act are available for enforcement of duties of support under this subchapter.

§1557. Time of trial

If the issue of paternity is raised in an action commenced during the pregnancy of the mother, the trial may not, without the consent of the alleged father, be held until after the birth or miscarriage.

This subchapter may not be construed to deny either party a trial by jury on the issue of paternity.

§1558. Authority for blood or tissue-typing tests

The court, upon its own initiative or upon suggestion made by or on behalf of a person whose blood or tissue is involved or the mother, may order or, upon motion of a party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood or tissue typing tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. If a party refuses to submit to those tests, the court may resolve the question of paternity against that party or may enforce the order, if the rights of others and the interests of justice so require.

§1559. Selection of experts

The tests required by the court order under section 1558 must be made by experts qualified as examiners of blood or tissue types who are appointed by the court. The experts may be called by the court as witnesses to testify to their findings and may be subject to cross-examination by the parties. A party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood or tissue types, perform

independent tests under order of court, the results of which may be offered in evidence. The court shall determine the number and qualifications of those experts.

§1560. Compensation of expert witnesses

The court shall set the compensation of each expert witness appointed by the court at a reasonable amount. The court may order the parties to pay the compensation in appropriate proportions and may order when the payments are to be made. The court may order that, after payment by the parties, all, part or none of the compensation may be taxed as costs in the action. The fee of an expert witness called by a party but not appointed by the court must be paid by the party calling the expert witness and may not be taxed as costs in the action.

§1561. Effect of test results

1. Effect of results. The results of the tests required pursuant to section 1558 are evidence to be used in determining paternity as follows.

A. If the court finds that the conclusion of all the experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity must be resolved accordingly.

B. If the experts disagree in their findings or conclusions, the question must be submitted upon all the evidence.

C. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than 97%, this evidence must be admitted by the court and weighed with other competent evidence of paternity.

D. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher, the alleged father is presumed to be the father, and this evidence must be admitted.

2. Chain of custody; evidence. Notarized documentation of the chain of custody of the blood and tissue samples is competent evidence to establish the chain of custody.

3. Notarized reports; challenges. A notarized report of the blood and tissue tests, prepared by the appointed experts, must be admitted at trial, unless a written challenge to the testing procedure or the results of the blood and tissue tests has been filed with the court and delivered to opposing counsel at least 30 days before a hearing set to determine the issue of

paternity. Failure to make that timely challenge constitutes a waiver of the right to have the experts appear in person and is not grounds for a continuance of the hearing to determine paternity.

§1562. Rebuttal of presumption

An alleged father or a mother may rebut the presumption of paternity contained in section 1561, subsection 1, paragraph D by clear and convincing evidence.

§1563. Admissible evidence

1. Evidence of paternity; admissible. In an action brought under this subchapter, evidence relating to paternity may include, but is not limited to:

A. An expert's opinion concerning the time of conception;

B. Evidence of sexual intercourse between the mother and alleged father at a possible time of conception;

C. Medical, scientific or genetic evidence relating to the alleged father's paternity of the child based upon tests performed by experts; or

D. The statistical probability of the alleged father's paternity based upon the blood or tissue tests.

2. Inadmissible evidence. Testimony relating to sexual relations or possible sexual relations of the mother at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

§1564. Presumption of legitimacy not applicable

1. Presumption not applicable. The presumption of legitimacy provided in the Maine Rules of Evidence, Rule 302 does not apply if:

A. The experts conclude that reliable blood or tissue tests show that the presumed father is not the biological parent of the child; or

B. The experts conclude that reliable blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher.

§1565. Judgment

1. Support. Judgments under this subchapter may be for periodic payments that may vary in amount. The court may order payments to be made to the person to whom the support is owed or to the person, corporation or agency designated to

administer payments under the supervision of the court.

2. Parental rights and responsibilities. The court may order an initial allocation of parental rights and responsibilities. The order of the court must provide notice that if either party objects to the allocation, that party may file a complaint pursuant to section 1654 and that an order from that action supersedes this initial allocation of parental rights and responsibilities. It is within the court's discretion to award or allocate parental rights and responsibilities under this subchapter and the department is not a party to this issue. In resolving parental rights and responsibilities issues, the court may not delay entering a determination of paternity and an initial order concerning child support.

§1566. Security

Upon motion of the plaintiff, the court at a time before or after judgment may require the alleged or adjudicated father to give bond or other security for the payment of a judgment that exists or may exist in the future.

§1567. Settlement agreements

An agreement of settlement with the alleged father is binding only when approved by the court.

§1568. Venue

An action under this subchapter may be brought in the county or district where the alleged father is present or has property or in the county or district where the mother or child resides.

§1569. Uniformity of interpretation

This subchapter must be interpreted and construed so as to effectuate its general purpose to make uniform the laws of those states that enact it.

§1570. Rules of civil procedure

1. Procedure. The rules of civil procedure apply to this subchapter in all cases of birth out of wedlock when the birth occurs after October 7, 1967.

2. Dismissal without prejudice. Dismissals of paternity actions must be without prejudice in all cases except:

A. When an adjudication on the merits has occurred; or

B. When the department is a party to the action and the department consents to the dismissal with prejudice.

SUBCHAPTER II
EXPEDITED PROCESS FOR THE
COMMENCEMENT OF PATERNITY
ACTIONS

§1601. Definitions

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

1. Alleged father. "Alleged father" means:

A. A man who is alleged to have engaged in sexual intercourse with a child's mother during a possible time of conception of the child; or

B. A man who is presumed to be a child's father under the Maine Rules of Evidence, Rule 302.

2. Blood or tissue-typing tests. "Blood or tissue-typing tests" means tests that demonstrate through examination of genetic markers the paternity of a child.

3. Paternity proceeding. "Paternity proceeding" means the administrative proceeding provided in this subchapter for the commencement of an action to establish paternity under subchapter I.

§1602. Additional persons subject to jurisdiction

1. Application. To ensure maximum protection to citizens of this State, the department shall apply this section to assert jurisdiction over nonresident alleged fathers to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

2. Cause of action. A person who engages in sexual intercourse with a resident of this State in this State submits to the jurisdiction of the department for the purpose of the commencement of a paternity proceeding.

§1603. Limitation on recovery from father

An alleged father's liability for past expenses incurred is limited to the 6 years preceding service of the notice under section 1605.

§1604. Service

Service of a notice under section 1605 must be made by service in hand and may be made by an authorized representative of the commissioner or by a person authorized by the Maine Rules of Civil Procedure.

§1605. Notice of proceeding to commence an action

1. Notice of proceeding. The department may commence a paternity proceeding by serving a notice on an alleged father. The department may not serve such a notice unless it has a sworn statement or affirmation under the penalty for unsworn falsification from the child's mother claiming that the alleged father engaged in sexual intercourse with her during a possible time of conception of the child or is a man who is presumed under state law to be the child's father. If the mother is a minor, the sworn statement or affirmation may be that of the guardian or next friend of the mother.

2. Contents of notice. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice must include:

A. A statement that service of the notice on the alleged father constitutes the commencement of a paternity proceeding for the determination of paternity and any related issues under this chapter;

B. A statement identifying any of the following as the reason for filing the record of the proceeding in court.

(1) The alleged father fails to deny paternity.

(2) The alleged father refuses to submit to blood or tissue-typing tests.

(3) The alleged father fails to execute and deliver to the department an acknowledgment of paternity;

C. A statement that, if the department files a record of the proceeding, the department may seek relief under section 1606;

D. The child's name and place and date of birth;

E. The name of the child's mother and the name of the person or agency having custody of the child, if other than the mother;

F. The probable date on or period during which the child was conceived;

G. An allegation that the alleged father engaged in sexual intercourse with the child's mother during a possible time of conception of the child or is a man who is presumed to be the child's father under state law, and that the alleged father is or may be the biological father of the child;

H. If applicable, an allegation that the child may have been conceived as a result of sexual intercourse in this State and that the alleged father is

subject to personal jurisdiction under section 1602;

I. A statement that the alleged father may deny the allegation of paternity by filing a written denial of paternity with the department within 20 days after service of the notice; that if the alleged father fails to file a written denial, the proceeding will be filed in a court as a paternity proceeding; and that the question of paternity and any related issues under this chapter may be resolved against him by the court;

J. A statement that if the alleged father files a written denial of paternity:

(1) The department will provide an expert examiner of blood or tissue types to conduct blood or tissue-typing tests on the mother, child and alleged father and the tests will be conducted as follows.

(a) The alleged father is required to submit to tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins.

(b) The department will pay the initial cost of the tests.

(c) An indigent alleged father is not liable for reimbursement of the cost of the tests;

(2) If the alleged father refuses to submit to tests under subparagraph (1), the proceeding will be filed in a court as a paternity proceeding;

(3) If the alleged father is not excluded by the test results and he does not, within 15 days of the ordinary mailing to him of a report and copy of the blood or tissue-typing results, execute and deliver to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding will be filed in a court as a paternity proceeding; and

(4) If the alleged father is excluded by the test results as the biological father of the child, the proceeding will be filed in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A;

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to

the department an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; and

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

(1) Refuses to submit to blood or tissue-typing tests; or

(2) Fails to execute and deliver to the department an acknowledgment of paternity.

§1606. Court orders; relief

The department may request that the court:

1. Establish as biological father. Establish the alleged father as the biological father of the child;

2. Child support. Order the alleged father to make child support payments as required under chapter 63;

3. To whom payments made. Order the alleged father to make support payments directly to the department whenever the mother is receiving Aid to Families with Dependent Children benefits from the department for the child or is a support enforcement client of the department and at all other times directly to the mother;

4. Past support. Order the alleged father to pay past support to the mother or the department or other payor of public assistance, as applicable, for the past support, birth expenses and medical expenses incurred on behalf of the child to the time of trial and grant judgment to the mother or the department or other payor of public assistance, as applicable with execution to issue immediately. A judgment for past support is calculated by applying the current child support guidelines to the period for which past support is owed;

5. Medical expenses. Order the alleged father to pay all reasonable medical, dental, hospital and optical expenses for the child, to provide medical and health insurance coverage for the child and to provide evidence of that coverage to the department under section 2605;

6. Attorney's fees. Order the alleged father to pay reasonable attorney's fees under section 1552 and costs for prosecution of the action, including, but not limited to, prejudgment interest;

7. Income withholding period. Order income withholding as available under or required by law; and

8. Other relief. Grant such other relief as the court determines just and proper, including an initial allocation of parental rights and responsibilities as allowed by section 1565.

§1607. Applicability; Maine Rules of Civil Procedure, Rule 5(b)

The Maine Rules of Civil Procedure, Rule 5(b) applies to a proceeding under this chapter.

§1608. Multiple alleged fathers

When it appears to the department that there may be more than one alleged father, the department may maintain proceedings against each alleged father, simultaneously or successively. Failure to serve a notice on an alleged father does not bar the department from maintaining a proceeding under this chapter against any other alleged father.

§1609. Failure of alleged father to deny paternity

1. Filing of record of proceeding in court. If the alleged father fails to file a written denial of paternity with the department within 20 days after service of notice upon him, the department's attorney may file the record of the proceeding in a court as a paternity action. The filing of the record, along with proof of service pursuant to section 1604, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required.

2. Failure to file written denial constitutes default. The alleged father's failure to file a written denial with the department constitutes a default under the Maine Rules of Civil Procedure, Rule 55(a). The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment. The mailing of the request to the alleged father's last known address constitutes adequate notice of the default proceeding and further notice is not required.

§1610. Blood or tissue-typing tests

1. Requirement of tests. If the alleged father files a written denial of paternity with the department within 20 days after service of the notice upon him, the department shall schedule blood or tissue-typing tests for the mother, the child and the alleged father, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. The tests must be performed by an expert examiner in a laboratory that is accredited for parentage testing by the American Association of Blood Banks.

2. Scheduling of tests. The department shall notify the alleged father in writing by ordinary mail of the date, time and place of his blood or tissue-typing

tests. The tests must be conducted no earlier than 15 days following the mailing of the department's notice, except with the consent of the alleged father. The tests must be conducted in an office of the department, when practicable. The department shall take into account the alleged father's place of residence or employment in selecting the location of the tests.

3. Rescheduling of tests. If the alleged father does not submit to the tests, the department shall notify him in writing by ordinary mail that if he does not, within 15 days, request the department to reschedule the tests, his failure to appear constitutes a refusal to submit to the tests. If the alleged father timely requests rescheduling, the department shall reschedule the tests. The rescheduled tests must be conducted no earlier than 15 days following the mailing of the notice of rescheduling. The notice must also advise the alleged father that, if he fails to submit to the rescheduled tests, the failure constitutes a refusal to submit to the tests.

§1611. Refusal of alleged father to submit to blood or tissue-typing tests

1. Filing of record in court. If the alleged father denies paternity and subsequently fails to submit to blood or tissue-typing testing, the record may be filed in court as a paternity action and the department may seek an adjudication of paternity pursuant to section 1558. The alleged father's refusal to submit to a blood or tissue-typing test constitutes a refusal to submit under section 1558. The filing of the record, along with proof of service pursuant to section 1604, constitutes compliance with the Maine Rules of Civil Procedure, Rule 3(1).

2. Notice of filing. The department shall send to the alleged father by ordinary mail notice of the filing of the paternity proceeding and a request under section 1558. Within 20 days of the mailing of this notice, the alleged father may assert any defense, in law or fact.

3. Request for default judgment or order. The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment or an order pursuant to section 1558. If the alleged father does not notify the court in writing within 20 days of the date the department's request was mailed that he opposes the relief requested by the department, the court may grant the relief requested without a hearing. Any notice mailed must contain the substance of this section.

§1612. Procedures after blood or tissue-typing tests

1. Transmittal of test results. Upon receipt of the results of the tests, the department shall send copies of the results by ordinary mail to the alleged

father and to the child's mother or to the mother's guardian or next friend if the mother is a minor.

2. Exclusion of alleged father. If the alleged father is excluded by the test results as the biological father of the child, the department may file the record of the proceeding in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A.

3. Nonexclusion of alleged father. If the alleged father is not excluded by the test results and he does not, within 15 days of the mailing to him of a copy of the blood or tissue-typing test results and report, execute and deliver to the department by ordinary mail an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the department may file the record of the proceeding, including the blood or tissue-typing test results, in a court as a paternity proceeding. Section 1561 applies to the action even though the tests were performed and the results prepared as part of an administrative proceeding. The alleged father's participation in the tests may not prejudice any application by the alleged father under section 1559 for an order appointing an additional examiner of blood or tissue types.

§1613. Applicability; Maine Rules of Civil Procedure, Rule 12(b)

If a record of the proceeding is filed under section 1611 or section 1612, subsection 3, the alleged father is not required to file an additional denial of paternity. He may assert any defense, in law or fact. Any defense must be asserted within 25 days after the mailing by ordinary mail of a notice to the alleged father that the record has been filed in court. The notice must contain the substance of this section.

§1614. Acknowledgment of paternity

If, prior to the filing in a court, the alleged father executes and delivers to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding must be terminated and the department may proceed against the father under chapter 65, subchapter II, article 3 with respect to any remedy provided under that article.

CHAPTER 55

RIGHTS AND RESPONSIBILITIES

§1651. Parents joint natural guardians of children

The father and mother are the joint natural guardians of their minor children and are jointly entitled to the care, custody, control, services and earnings of their children. Neither parent has any

rights paramount to the rights of the other with reference to any matter affecting their children.

§1652. Spouse's or parent's obligation to support

1. Petition. If a parent, spouse or child resides in this State, a parent, a spouse, a guardian or a municipality providing maintenance may petition the Superior Court, District Court or Probate Court to order a nonsupporting parent or spouse to contribute to the support of the nonsupporting person's spouse or child. The petition may be brought in the court in the county or district where the parent, spouse or child resides or in the county or district in which the nonsupporting person may be found.

2. Court action. If the court finds that the nonsupporting person is of sufficient ability or is able to labor and provide for that person's children or spouse, and that the person has willfully and without reasonable cause refused or neglected to so provide, then the court may order the person to contribute to the support of that person's children or spouse in regular amounts that it determines reasonable and just. Child support must be determined or modified in accordance with chapter 63.

3. Order pending petition. Pending petition, and after notice and an opportunity for a hearing, the court may order a nonsupporting person to pay to the court for the nonsupporting person's spouse or child sufficient money for the prosecution of the petition.

4. Enforcement. The court may enforce an order as provided in chapter 65.

5. Appeals. A party aggrieved by an order may appeal in the same manner as provided for appeals from that court in other causes. Continuance of an appeal may not be allowed without consent of the appellant or a showing of legal cause for the continuance to the court to which the order has been appealed.

6. Order during pending appeal. Pending the determination of an appeal, the order appealed from remains in force and obedience to it may be enforced as if no appeal had been taken.

§1653. Parental rights and responsibilities

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.

2. Parental rights and responsibilities; order.

This subsection governs parental rights and responsibilities and court orders for parental rights and responsibilities.

A. 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.

B. The court may award reasonable rights of contact with a minor child to a 3rd person.

C. The court may award parental rights and responsibilities with respect to the child to a 3rd person, a suitable society or institution for the care and protection of children or the department, 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.

D. The order of the court awarding parental rights and responsibilities must include the following:

(1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) 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

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7.

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

E. The order of the court may not include a requirement that the State pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014.

3. Best interest of child. The court, in making an award of parental rights and responsibilities with respect to a 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;

L. The existence 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;

M. The existence of any history of child abuse by a parent; and

N. All other factors having a reasonable bearing on the physical and psychological well-being of the child.

4. Equal consideration of parents. The court may not apply a preference for one parent over the other in determining parental rights and responsibilities because of the parent's gender or the child's age or gender.

5. Departure from family residence. The court may not consider departure from the family residence as a factor in determining parental rights and responsibilities with respect to a minor child when the departing parent has been physically harmed or seriously threatened with physical harm by the other parent and that harm or threat of harm was causally related to the departure, or when one parent has left the family residence by mutual agreement or at the request or insistence of the other parent.

6. 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 desig-

nated 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 with whom the child 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 set forth in this subsection incurred by the parent who has committed domestic abuse may not be considered as a mitigating factor reducing that parent's child support obligation.

7. Violation of order concerning parental rights and responsibilities and contact. Either

parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 2. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may:

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; or

C. Order a parent found in contempt to pay a forfeiture of at least \$100.

8. Child support order. The court may order conditions of child support as follows.

A. Either parent of a minor child shall contribute reasonable and just sums as child support payable weekly, monthly or quarterly. In an action filed under section 1654, the court may require the child's nonprimary care provider to pay past support. Availability of public welfare benefits to the family may not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to chapter 65, subchapter II, article 3. If an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section and a determination of past support must comply with chapter 63.

B. After January 1, 1990, if the court orders either parent to provide child support, the court order must require that the child support be provided beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever occurs first.

C. The court may require the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring the obligated parent to obtain and maintain health insurance coverage for medical, hospitalization and dental expenses, if reasonable cost health insurance is available to the obligated parent. The court order must also require the obligated parent to furnish proof of coverage to the obligee within 15 days of receipt of a copy of the court order. If reasonable cost health insurance is not available at the time of the hearing, the court order must establish the obligation to provide health insurance on the part

of the obligated parent, effective immediately upon reasonable cost health insurance being available.

When the department provides support enforcement services, the support order must include a provision that requires the responsible parent to keep the department informed of changes in that parent's current address, the name and address of that parent's current employer and whether the responsible parent has access to reasonable cost health insurance coverage and, if so, the health insurance policy information and any subsequent changes.

9. Enforcement of child support order. The court may enforce a child support order as provided in chapter 65.

10. Modification or termination. Upon the petition of one or both of the parents, an order for parental rights and responsibilities with respect to a minor child may be modified or terminated as circumstances require.

A. Modification and termination of child support orders are governed by section 2009.

B. Modification of and termination orders for parental rights and responsibilities other than child support are governed by section 1657.

11. Mediation. Prior to a contested hearing under this chapter relating to initial or modified orders, the court shall refer the parties to mediation as provided in chapter 3.

12. Termination of order. A court order requiring the payment of child support remains in force as to each child until the order is altered by the court or until that child:

A. Attains 18 years of age. For orders issued after January 1, 1990, if the child attains 18 years of age while attending secondary school as defined in Title 20-A, section 1, the order remains in force until the child graduates, withdraws or is expelled from secondary school or attains 19 years of age, whichever occurs first;

B. Becomes married; or

C. Becomes a member of the armed services.

13. Automatic adjustments. The order of the court or hearing officer may include automatic adjustments to the amount of money paid for the support of a child when the child attains 12 or 18 years of age; or when the child graduates, withdraws or is expelled from secondary school, attains 19 years of age or is otherwise emancipated, whichever occurs first.

§1654. Parenting and support when parents live apart

If the father and mother of a minor child are living apart, the Probate Court, Superior Court or District Court in the county or division where either resides, upon complaint of either and after notice to the other as the court may order, may make an order awarding parental rights and responsibilities with respect to the child in accordance with this chapter.

The jurisdiction granted by this section is limited by the Uniform Child Custody Jurisdiction Act, if another state may have jurisdiction as provided in that Act.

§1655. Support and maintenance when parental rights and responsibilities or contact awarded to agency or person other than parent

1. Department granted parental rights and responsibilities or contact awarded. When the department has been granted parental rights and responsibilities for a child under this chapter, Title 22, chapter 1071 applies regarding subsequent reviews and governs further rights and responsibilities of the department, the parents, the child and any other party.

2. Modification of orders. Upon the motion of an agency or person who has been granted parental rights and responsibilities or contact with respect to a child under this chapter, the court may alter its order concerning parental rights and responsibilities or contact with respect to a minor child as circumstances require in accordance with section 1657.

3. Support of child committed to agency. When a child under 17 years of age is committed by the District Court, or the District Court acting as a Juvenile Court, to custody other than that of the child's parent, that commitment is subject to Title 22, sections 4038, 4061 and 4063. The court may, after giving a parent a reasonable opportunity to be heard, adjudge that the parent shall pay, in a manner as the court may direct, a sum that covers in whole or in part the support of that child. If that parent fails to pay that sum, that parent may be proceeded against as provided in chapter 65. A determination or modification of child support under this section must comply with chapter 63.

§1656. Exclusion of public

In an action for parental rights and responsibilities under this chapter, at the request of either party, personally or through that party's attorney, unless the other party who has entered an appearance objects personally or through the other party's attorney, the court shall exclude the public from the court proceedings.

If the court orders that the public is to be excluded, only the parties, their attorneys, court officers and witnesses may be present.

§1657. Modification or termination of orders for parental rights and responsibilities

1. Modification or termination. An order for parental rights and responsibilities may be modified or terminated as circumstances require:

A. Upon the petition of one or both of the parents; or

B. Upon the motion of an agency or person who has been granted parental rights and responsibilities or contact with a child under this chapter.

2. Change in circumstances. In reviewing a motion for modification or termination filed under chapter 59 or section 1653 or 1655, the following constitute a substantial change in circumstances:

A. 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 of this State and there exists an award of shared or allocated parental rights and responsibilities concerning the child; or

B. A finding by the court that domestic or family violence has occurred since the last determination of primary residence.

3. Uniform Child Custody Jurisdiction Act. The jurisdiction granted by this section to make or alter an order concerning parental rights and responsibilities with respect to a minor child is limited by the Uniform Child Custody Jurisdiction Act, if another state may have jurisdiction as provided in that Act.

CHAPTER 57**UNIFORM CHILD CUSTODY JURISDICTION ACT****§1701. Short title**

This chapter may be known and cited as the "Uniform Child Custody Jurisdiction Act."

§1702. Purposes of chapter; construction of provisions

1. General purposes. The general purposes of this chapter are to:

A. Avoid jurisdictional competition and conflict with courts of other states in matters of child custody that have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;

B. Promote cooperation with the courts of other states to ensure that custody decrees rendered in those states decide cases in the best interest of the child;

C. Ensure that litigation concerning the custody of a child take place ordinarily in the state with which the child and the child's family have the closest connection and where significant evidence concerning the child's care, protection, training and personal relationships is most readily available, and that courts of this State decline the exercise of jurisdiction when the child and the child's family have a closer connection with another state;

D. Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

E. Deter abductions and other unilateral removals of children undertaken to obtain custody awards;

F. Avoid relitigation of custody decisions of other states in this State insofar as feasible;

G. Facilitate the enforcement of custody decrees of other states;

H. Promote and expand the exchange of information and other forms of mutual assistance between the courts of this State and those of other states concerned with the same child; and

I. Make uniform the law of those states that enact this Act.

2. Construction. This chapter must be construed to promote the general purposes stated in this section.

§1703. Definitions

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

1. Contestant. "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child.

2. Custody determination. "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. "Custody determination" does not include a decision relating to child support or any other monetary obligation of a person.

3. Custody proceeding. "Custody proceeding" includes proceedings in which custody determination

is one of the several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

4. Decree or custody decree. "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding. "Decree" or "custody decree" includes an initial decree and a modification decree.

5. Home state. "Home state" means the state in which a child, immediately preceding the time involved, lived with the child's parents, a parent or a person acting as a parent for at least 6 consecutive months and, in the case of a child less than 6 months old, the state in which the child lived from birth with the child's parents, a parent or a person acting as a parent. Periods of temporary absence of the child's parents, a parent or a person acting as a parent are counted as part of the 6-month or other period.

6. Initial decree. "Initial decree" means the first custody decree concerning a particular child.

7. Modification decree. "Modification decree" means a custody decree that modifies or replaces a prior decree, whether made by the court that rendered the prior decree or by another court.

8. Physical custody. "Physical custody" means actual possession and control of a child.

9. Person acting as a parent. "Person acting as a parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

§1704. Jurisdiction

1. Grounds for jurisdiction. A court of this State that is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

A. This State is the home state of the child at the time of commencement of the proceeding or has been the child's home state within 6 months before commencement of the proceeding and the child is absent from this State because of the child's removal or retention by a person claiming custody or for other reasons while a parent or person acting as a parent continues to live in this State;

B. It is in the best interest of the child that a court of this State assume jurisdiction because the child and the child's parents, or the child and at least one contestant, have a significant connection with this State and there is available in this State substantial evidence concerning the

child's present or future care, protection, training and personal relationships;

C. The child is physically present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child has been subjected to or threatened with mistreatment or abuse or is otherwise neglected; or

D. It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph A, B or C, or another state has declined to exercise jurisdiction on the ground that this State is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

2. Sufficiency of physical presence. Except under subsection 1, paragraphs C and D, physical presence in this State of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this State to make a child custody determination.

3. Physical presence as prerequisite. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine custody.

§1705. Notice and opportunity to be heard

Before making a decree under this chapter, reasonable notice and opportunity to be heard must be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of the child. If any of these persons is outside this State, notice and opportunity to be heard must be given pursuant to section 1706.

§1706. Notice to persons outside the State; submission to jurisdiction

1. Manner of notice. Notice required for the exercise of jurisdiction over a person outside this State must be given in a manner reasonably calculated to give actual notice and may be:

A. By personal delivery outside this State in the manner prescribed for service of process in this State;

B. In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in courts of general jurisdiction;

C. By any form of mail addressed to the person to be served and that requires a receipt; or

D. As directed by the court, including publication, if other means of notification are ineffective.

2. Time of notice. Notice under this section must be served, mailed or delivered, or last published at least 20 days before any hearing in this State.

3. Proof of service. Proof of service outside this State may be made by affidavit of the individual who made the service, pursuant to the laws of this State, by the order pursuant to which the service is made or pursuant to the laws of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

4. Notice not required. Notice is not required if a person submits to the jurisdiction of the court.

§1707. Simultaneous proceedings in other states

1. Prohibition on exercising jurisdiction. A court of this State may not exercise its jurisdiction under this chapter if, at the time of filing the petition, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this chapter, unless the proceeding is stayed by the court of the other state because this State is a more appropriate forum or for other reasons.

2. Investigating proceedings in other states. Before hearing the petition in a custody proceeding, the court must examine the pleadings and other information supplied by the parties under section 1710 and consult the child custody registry established under section 1717 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

3. Resolution of multiple proceedings. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending so that the issue may be litigated in the more appropriate forum and information may be exchanged in accordance with sections 1720 to 1723. If a court of this State has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court so that the issues may be litigated in the more appropriate forum.

§1708. Inconvenient forum

1. Decline to exercise jurisdiction. A court that has jurisdiction under this chapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

2. Motion for findings. A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

3. Determination of inconvenient forum. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose, it may take into account the following factors, among others:

A. If another state is or recently was the child's home state;

B. If another state has a closer connection with the child and the child's family or with the child and one or more of the contestants;

C. If substantial evidence concerning the child's present or future care, protection, training and personal relationships is more readily available in another state;

D. If the parties have agreed on another forum that is no less appropriate; and

E. If the exercise of jurisdiction by a court of this State would contravene any of the purposes stated in section 1702.

4. Communicating with other states. Before determining whether to decline or retain jurisdiction, the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to ensuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

5. Dismissal or stay. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings or stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions that may be just and proper, including the condition that a moving party stipulate consent and submission to the jurisdiction of the other forum.

6. Separation of divorce and custody jurisdictions. The court may decline to exercise its jurisdiction under this chapter, if a custody determination is incidental to an action for divorce or another proceeding, while retaining jurisdiction over the divorce or other proceeding.

7. Costs. If it appears to the court that the forum is clearly inappropriate, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this State, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

8. Informing another state. Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court that would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

9. Other state informing this State. Communication received from another state informing this State of a finding of inconvenient forum because a court of this State is the more appropriate forum must be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this State shall inform the original court of this fact.

§1709. Jurisdiction declined by reason of conduct

1. Reprehensible conduct. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

2. Improper removal of child. Unless required in the interest of the child, the court may not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

3. Costs. In appropriate cases, a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses.

§1710. Information under oath to be submitted to the court**1. Information required in first pleading.**

Every party in a custody proceeding in the party's first pleading or in an affidavit attached to that pleading shall give information under oath or affirmation as to the child's present address, the places where the child has lived within the last 5 years and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit, every party shall further declare under oath or affirmation whether:

A. That party has participated as a party, witness or in any other capacity in any other litigation concerning the custody of the same child in this State or another state;

B. That party has information of any custody proceeding concerning the child pending in a court of this State or another state; and

C. That party knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

2. Other information. If the declaration as to any item in subsection 1 is in the affirmative, the declarant shall give additional information under oath or affirmation as required by the court. The court may examine the parties under oath or affirmation as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. Continuing duty of parties. Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this State or another state of which the party obtained information during this proceeding.

§1711. Additional parties

If the court learns from information furnished by the parties under section 1710 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of that person's joinder as a party. If the person joined as a party is outside this State, that person must be served with process or otherwise notified in accordance with section 1706.

§1712. Appearance of parties and the child

1. Personal appearance of in-state party. The court may order a party to the proceeding who is in

this State to appear personally before the court. If that party has physical custody of the child, the court may order that that party appear personally with the child.

2. Personal appearance of out-of-state party.

If a party to the proceeding whose presence is desired by the court is outside this State with or without the child, the court may order that the notice given under section 1706 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

3. Costs. If a party to the proceeding who is outside this State is directed to appear under subsection 2 or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

§1713. Binding force and res judicata effect of custody decree

A custody decree rendered by a court of this State that had jurisdiction under section 1704 binds all parties who have been served in this State or notified in accordance with section 1306 or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. Concerning these parties, the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this chapter.

§1714. Recognition of out-of-state custody decrees

The courts of this State shall recognize and enforce an initial or modification decree of a court of another state that had assumed jurisdiction under statutory provisions substantially in accordance with this chapter or that was made under factual circumstances meeting the jurisdictional standards of this chapter, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this chapter.

§1715. Modification of custody decree of another state

1. Limits on modification. If a court of another state has made a custody decree, a court of this State may not modify that decree unless it appears to the court of this State that the court that rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or has declined to assume jurisdiction to modify the decree and the court of this State has jurisdiction.

2. Consideration of proceedings in another state. If a court of this State is authorized under subsection 1 and section 1709 to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 1723.

§1716. Filing and enforcement of custody decree of another state

1. Filing a decree of another state. A certified copy of a custody decree of another state may be filed in the office of the clerk of a court of this State having jurisdiction under section 1704. The clerk shall treat the decree in the same manner as a custody decree of that court. A custody decree so filed has the same effect and must be enforced in like manner as a custody decree rendered by a court of this State.

2. Costs. A person violating a custody decree of another state making it necessary to enforce the decree in this State may be required to pay necessary travel and other expenses, including attorney's fees incurred by the party entitled to the custody or the party's witnesses.

3. Filing in registry. Upon receiving a custody decree of another state, the clerk shall send a certified copy of that decree for filing under section 1717 to the State Court Administrator.

§1717. Registry of out-of-state custody decrees and proceedings

The State Court Administrator shall maintain a registry in which the administrator shall enter the following:

1. Copies of decrees. Certified copies of custody decrees of other states received for filing;

2. Communications on pending decrees. Communications concerning the pendency of custody proceedings in other states;

3. Communications on inconvenient forum findings. Communications concerning a finding of inconvenient forum by a court of another state; and

4. Other information. Other communications or documents concerning custody proceedings in another state that may affect the jurisdiction of a court of this State or the disposition to be made by it in a custody proceeding.

§1718. Certified copies of custody decree

The State Court Administrator, at the request of the court of another state or at the request of a person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the

decree to that court or person. The administrator shall provide copies at cost.

§1719. Taking testimony in another state

In addition to other procedural devices available to a party, a party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise in another state. The court on its own motion may direct that the testimony of a person be taken in another state and prescribe the manner in which and the terms upon which the testimony must be taken.

§1720. Hearings and studies in another state; orders to appear

1. Requesting another state to hold hearings. A court of this State may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this State. A court of this State may request the appropriate court of another state to forward to the court of this State certified copies of the transcript of the record of the hearing, the evidence otherwise adduced or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the State.

2. Request another state to order personal appearance. A court of this State may request the appropriate court of another state to order a party to custody proceedings pending in the court of this State to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

§1721. Assistance to courts of other states

1. Responding to requests of other states. Upon request of the court of another state, the courts of this State that are competent to hear custody matters may order a person in this State to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this State or may request social studies to be made for use in a custody proceeding in another state as provided under section 905 for proceedings in this State. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and the social studies prepared must be forwarded by the clerk of the court to the requesting court.

2. Voluntary testimony. A person within this State may voluntarily give testimony or a statement in this State for use in a custody proceeding outside this State.

3. Ordering personal appearance in another state. Upon request of the court of another state, a competent court of this State may order a person in this State to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that state travel and other necessary expenses will be advanced or reimbursed.

§1722. Preservation of documents for use in other states

In any custody proceeding in this State, the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies and other pertinent documents until the child reaches 18 years of age. Upon appropriate request of the court of another state, the court shall forward to the other court certified copies of all such documents.

§1723. Request for court records of another state

If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this State, the court of this State upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 1722.

§1724. International application

The general policies of this chapter extend to the international area. The provisions of this chapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

§1725. Priority

Upon the request of a party to a custody proceeding that raises a question of existence or exercise of jurisdiction under this chapter, the case must be given calendar priority and handled expeditiously.

CHAPTER 59

VISITATION RIGHTS OF GRANDPARENTS

§1801. Short title

This chapter is known and may be cited as the "Grandparents Visitation Act."

§1802. Definitions

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

1. Grandparent. "Grandparent" is a biological or adoptive parent of a child's biological or adoptive parent. "Grandparent" includes a biological or adoptive parent of a child's biological or adoptive parent whose parental rights have been terminated pursuant to Title 18-A, section 9-204 or Title 22, chapter 1071, subchapter VI, but only until the child's adoption.

§1803. Petition

1. Standing to petition for visitation rights. A grandparent of a minor child may petition the court for reasonable rights of visitation or access if:

A. At least one of the child's parents or legal guardians has died;

B. There is a sufficient existing relationship between the grandparent and the child; or

C. When a sufficient existing relationship between the grandparent and the child does not exist, a sufficient effort to establish one has been made.

2. 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 3.

3. Best interest of the child. The court may grant a grandparent reasonable rights of visitation or access to a minor child upon finding that rights of visitation or access are in the best interest of the child and would not significantly interfere with any parent-child relationship or with the parent's rightful authority over 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 grandparents, including the amount of previous contact;
- 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 the parent and grandparent to cooperate or to learn to cooperate in child care;
- I. Methods of assisting cooperation and resolving disputes and each person's willingness to use those methods; and
- J. Any other factor having a reasonable bearing on the physical and psychological well-being of the child.

4. Modification or termination. The court may modify or terminate any rights granted under this section as circumstances require. Modification or termination of rights must be consistent with this section.

5. Enforcement. The court may issue any orders necessary to enforce orders issued under this section or to protect the rights of parties.

6. Costs and fees. The court may award costs, including reasonable attorney's fees, for defending or prosecuting actions under this chapter.

§1804. Mediation

The court may refer the parties to mediation at any time after the petition is filed and may require that the parties have made a good faith effort to mediate the issue before holding a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, dismiss the action or any part of the action, render a decision or judgment by default, assess attorney's fees and costs or impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

An agreement reached by the parties through mediation on an issue must be reduced to writing, signed by the parties and presented to the court for approval as a court order.

§1805. Jurisdiction

An action may be commenced in the Superior Court or the District Court in which the minor child resides. If a child protective proceeding pursuant to Title 22, chapter 1071 is under the jurisdiction of the District Court, an action filed under this chapter must be brought in the District Court and the court may consolidate the proceedings.

An action must be commenced in accordance with the Maine Rules of Civil Procedure. Proceedings under this chapter are governed by the Maine Rules of Civil Procedure.

CHAPTER 63

CHILD SUPPORT GUIDELINES

§2001. Definitions

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

1. Basic support entitlement. "Basic support entitlement" means the sum derived from the child support table appropriate to the age of each child and the parties' gross income.

2. Child care costs. "Child care costs" means the actual child care costs incurred by the parties for each child for whom support is being established that are related to that party's employment, education or training and are reasonable or customary in the area in which that party resides.

3. Child support table. "Child support table" means the schedule that reflects the percentage of combined gross income that parents living in the same household in this State ordinarily spend on their children that has been adopted by the department under former Title 19, section 303-A.

4. Extraordinary medical expenses. "Extraordinary medical expenses" means uninsured expenses over \$150 in the aggregate per child or group of children supported for each calendar year and includes, but is not limited to, reasonable and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, chronic health problems and professional counseling or psychiatric therapy for diagnosed mental disorders.

5. Gross income. "Gross income" means gross income of a party as follows.

A. Gross income includes income from an ongoing source, including, but not limited to, salaries, wages, commissions, royalties, bonuses, dividends, severance pay, pensions, interest, trust funds, annuities, capital gains, social security benefits, disability insurance benefits, prizes, workers' compensation benefits, spousal support actually received pursuant to a preexisting order, and educational grants, fellowships or subsidies that are available for personal living expenses. Gross income does not include child support received by either party for children other than children for whom support is being determined.

B. Gross income includes expense reimbursements or in-kind payments received by a party in the course of employment or self-employment or operation of a business if the expense reimbursements or in-kind payments reduce personal living expenses.

C. Gross income includes gross receipts minus ordinary and necessary expenses when a party is self-employed or derives income from proprietorship of a business, joint ownership of a partnership or a closely held business operation, and rents minus ordinary and necessary expenses. At the discretion of the court, amounts allowable by the United States Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits may or may not be treated as ordinary and necessary expenses. The court may also determine that other business expenses, including, but not limited to, business losses, are inappropriate for determining gross income for purposes of calculating child support.

D. Gross income may include the difference between the amount a party is earning and that party's earning capacity when the party voluntarily becomes or remains unemployed or under-

employed, if sufficient evidence is introduced concerning a party's current earning capacity. In the absence of evidence in the record to the contrary, a party that is personally providing primary care for a child under the age of 3 years is deemed not available for employment. The court shall consider anticipated child care and other work-related expenses in determining whether to impute income, or how much income to impute, to a party providing primary care to a child between the ages of 3 and 12 years. A party who is incarcerated in a correctional or penal institution is deemed available only for employment that is available through such institutions.

E. Gross income does not include the amount of preexisting spousal maintenance or child support obligation actually paid pursuant to court or administrative order, or an appropriate amount of child support being voluntarily paid by a party who has a legal obligation to support that child.

F. Gross income does not include the actual incremental cost to a party for the provision of adequate health insurance coverage for each involved child.

G. Gross income does not include the amount of money received from means-tested public assistance programs, including, but not limited to, Aid to Families with Dependent Children, supplemental security income, food stamps and general assistance.

6. Parental support obligation. "Parental support obligation" means the portion of total support obligation a party is ordered to pay in money as child support.

7. Primary residence. "Primary residence" means the residence of a child where that child receives residential care for more than 50% of the time on an annual basis.

8. Primary residential care provider. "Primary residential care provider" means the party who provides residential care for a child for more than 50% of the time on an annual basis.

9. Support guidelines. "Support guidelines" means the child support table and the criteria for application of the table set forth in section 2006.

10. Total support obligation. "Total support obligation" means the sum of money determined by adding the basic support entitlement, child care costs and extraordinary medical expenses.

11. Twelve through 17 years; between the ages of 12 and 18 years. The age categories "12 through 17 years" and "between the ages of 12 and 18

years" as used in the child support table and elsewhere in the support guidelines are deemed to include a child between 18 and 19 years of age who is attending a secondary school for whom an obligation of support is established or deemed to remain in force pursuant to Public Law 1989, chapter 156.

§2002. Application

Notwithstanding any other provisions of law, this chapter applies to a court action or administrative proceeding in which a child support order is issued or modified under this Title or Title 22 and to any court action or administrative proceeding in which past support is awarded.

§2003. Forms

For the purposes of this chapter, the Supreme Judicial Court is authorized to prescribe or revise forms by administrative order or rule.

§2004. Income information and child support worksheets

1. Court actions. This subsection governs the exchange and filing of income affidavits, child support worksheets and supporting documentation in court actions.

A. In a court action to determine or modify support of a minor child, the plaintiff and defendant shall exchange, prior to mediation, affidavits regarding income and assets. These affidavits must conform with the forms provided by the court and must be accompanied by supporting documentation of current income, such as pay stubs, tax returns, employer statements or, if the plaintiff or defendant is self-employed, receipts and expenses.

B. The parties shall exchange prior to the commencement of mediation a completed child support worksheet. The worksheet must be completed in accordance with the support guidelines.

C. At least 3 days prior to a court hearing, whether contested or uncontested, the parties shall file with the court and exchange, if they have not already done so, the completed affidavits and child support worksheets. The parties are not required to file with the court the supporting documentation.

D. If a party fails to comply with this subsection, the court may, in its discretion:

- (1) Impose economic sanctions; or
- (2) Presume for the purpose of determining a current support obligation that the party

has an earning capacity equal to the average weekly wage of a worker in this State as determined by the most recent Department of Labor statistics. A different annual income may be used if there is sufficient reliable evidence to conclude reasonably that the noncomplying party earns a greater or lesser actual income.

E. The court may admit Department of Labor statistics into evidence for purposes of computing a parental support obligation.

2. Administrative proceedings. The department shall adopt rules regarding the provision of information necessary to apply the child support guidelines in administrative proceedings.

§2005. Rebuttable presumption

In a proceeding to establish or modify child support or to establish an award for past support, there is a rebuttable presumption that the parental support obligation derived from the support guidelines is the amount ordered to be paid, unless support is established under section 2007. The court shall review the adequacy of a child support amount agreed to by the parties with reference to the parental support obligation.

§2006. Support guidelines

1. Determination of basic support entitlement. After the court or hearing officer determines the annual gross income of both parties, the 2 incomes must be added together to provide a combined annual gross income and applied to the child support table to determine the basic support entitlement for each child.

When there is a child within each age category, the court or hearing officer shall refer to the table and locate the figure in the left-hand column that is closest to the parents' combined annual gross income. In each age category the court or hearing officer shall determine the dollar figure for the total number of children for whom support is being determined, multiply the dollar figure in each age category by the number of children in that category and add the 2 products. The resulting dollar amount represents the basic support entitlement.

2. Past support. This chapter applies to an award of past support. Past support is calculated by applying the current support guidelines to the period for which past support is owed.

3. Total support obligation. The total support obligation is determined by adding the child care costs and extraordinary medical expenses to the basic support entitlement as follows.

A. When each child is under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total support obligation.

B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total support obligation.

4. Computation of parental support obligation. The total support obligation must be divided between the parties in proportion to their respective gross incomes. The court or hearing officer shall order the party not providing primary residential care to pay, in money, that party's share of the total support obligation to the party providing primary residential care. The primary residential care provider is presumed to spend the primary care provider's share directly on each child.

5. Special circumstances. The court or hearing officer shall consider the following special circumstances in determining child support.

A. When the parent who is not the primary care provider is legally obligated to support a child in that party's household other than the child for whom a support order is being sought, an adjustment must be made to that party's parental support obligation. The adjustment is made by using the nonprimary residential care provider's annual gross income to compute a theoretical support obligation under the support guidelines for each child in that household. Neither the child support received by nor the financial contributions of the other parent of each child in the household are considered in the theoretical support calculation. The obligation is then subtracted from the annual gross income, and the adjusted income is the amount used to calculate support. The adjustment is used in all appropriate cases, except when the result would be a reduction in an award previously established.

B. When the parties' combined annual gross income exceeds \$126,600, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of \$126,600.

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of a nonprimary care provider

is less than the federal poverty guideline, or if the nonprimary care provider's income is insufficient to meet work-related expenses and other basic necessities as defined in Title 22, section 4301, subsection 1, that nonprimary care provider's weekly parental support obligation for each child for whom a support award is being established or modified may not exceed 10% of that nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income.

D. When the parties have equal annual gross incomes and provide residential care equally for each child for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses.

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for each child residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of each child for whom the party has primary residential responsibility. Each party's proportionate share of child care costs is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation.

6. Prospective child support award. An order establishing a child support award for a child who has attained 10 years of age must also establish an award for the child as if the child were 12 years of age. The prospective award becomes effective on the child's 12th birthday without further order or decision of the court or hearing officer, and the order establishing or modifying the prospective award must state this fact.

7. Incorporated findings. As part of its current child support order, the court or hearing officer shall make the following findings:

A. The names and dates of birth of each child for whom support is being sought;

B. The annual gross income of each party and the combined annual income of both parties;

C. The amount of the basic weekly support entitlement attributable to each child under 12 years

of age, as indicated per child per week on the child support table;

D. The amount of the basic weekly support entitlement attributable to each child 12 years of age and over, as indicated per child per week on the child support table;

E. The name and date of birth of each child for whom work-related day care expenses are paid and the amount of those expenses;

F. The name and date of birth of each child for whom extraordinary medical expenses are paid and the amount of those expenses; and

G. The parental support obligation of the non-primary care provider.

These findings are made by incorporating the completed child support worksheet into the order for current support.

8. Requirements of support provisions. To assist in a formal review proceeding, and to enable the parties to reduce the incidence of formal modification procedures, an order establishing parental support obligation must include:

A. The name of each child;

B. A beginning date for the parental support obligation;

C. A breakdown of the parental support obligation, including:

(1) The amount for basic support entitlements;

(2) The amount for child care costs;

(3) The amount for extraordinary medical expenses; and

(4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation;

D. For each child who has attained 10 years of age, a prospective award under subsection 6;

E. If each child for whom a parental support obligation is being established has attained 12 years of age, a specific sum to be paid depending on the number of minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs of raising a given number of children in a household, the order must provide a specific dollar amount for every combination of minor children. The court or hearing officer may not apportion support be-

tween the parents by determining the parental support obligation amount and dividing by the total number of children; and

F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 2007, the court or hearing officer shall incorporate into the order its written findings in support of the deviation.

9. Notice of right to review. A judicial order or administrative order issued or modified in this State that includes an order for child support must include a statement that advises parents of the right to request the department to review the amount of the support order pursuant to section 2010 if there is a substantial change of circumstances.

§2007. Deviation from child support guidelines

1. Rebutting presumption. If the court or hearing officer finds that a child support order based on the support guidelines would be inequitable or unjust due to one or more of the considerations listed under subsection 3, that finding is sufficient to rebut the presumption established in section 2005.

2. Proposed findings. A party in a court action proposing deviation from the application of the support guidelines shall provide the court with written proposed findings showing that the application of the presumptive amount would be inequitable or unjust.

3. Criteria for deviating from support guidelines. Criteria that may justify deviation from the support guidelines are as follows:

A. The nonprimary residential care provider is in fact providing primary residential care for more than 30% of the time on an annual basis;

B. The number of children for whom support is being determined is greater than 6;

C. The interrelation of the total support obligation established under the support guidelines for child support, the division of property and an award of spousal support made in the same proceeding for which a parental support obligation is being determined;

D. The financial resources of each child;

E. The financial resources and needs of a party, including nonrecurring income not included in the definition of gross income;

F. The standard of living each child would have enjoyed had the marital relationship continued;

G. The physical and emotional conditions of each child;

H. The educational needs of each child;

I. Inflation with relation to the cost of living;

J. Available income and financial contributions of the domestic associate or current spouse of each party;

K. The existence of other persons who are actually financially dependent on either party, including, but not limited to, elderly, disabled or infirm relatives, or adult children pursuing post-secondary education. If the primary care provider is legally responsible for another minor child who resides in the household and if the computation of a theoretical support obligation on behalf of the primary care provider would result in a significantly greater parental support obligation on the part of the nonprimary care provider, that factor may be considered;

L. The tax consequences of a support award, including the substantial monetary benefit that a party may derive from any federal tax credit for child care expenses;

M. The fact that the incremental cost of health insurance premiums required to be paid by a party, notwithstanding the deduction of these premiums from gross income, exceeds 15% of that party's share of the total support obligation;

N. The fact that income at a reasonable rate of return may be imputed to nonincome-producing assets with an aggregate fair market value of \$10,000 or more, other than an ordinary residence or other asset from which each child derives a substantial benefit;

O. The existence of special circumstances regarding a child 12 years of age or older, for the child's best interest, requires that the primary residential care provider continue to provide for employment-related day care;

P. An obligor party's substantial financial obligation regarding the costs of transportation of each child for purposes of parent and child contact. To be considered substantial, the transportation costs must exceed 15% of the yearly support obligation; and

Q. A finding by the court or hearing officer that the application of the support guidelines would be unjust, inappropriate or not in the child's best interest.

§2008. Stipulation

A stipulation of the parties establishing child support must be reviewed by the court or hearing officer to determine if the amount stipulated is in

substantial compliance with the presumptive application of the guidelines and, if a deviation is proposed, whether it is justified and appropriate under section 2007. The court or hearing officer shall review a proposed order that gives the stipulation effect to determine its compliance with this section.

§2009. Modification of existing support orders

1. Motion to modify support. A party, including the department, may file a motion to modify support. Unless a party also files a motion to amend the divorce judgment, a petition to amend under section 1653, subsection 10 or a motion for judicial review under Title 22, section 4038, the child support obligation is the sole issue to be determined by the court on a motion to modify support. The court, in its discretion, may bifurcate the support issue from other issues presented by the party's pleadings.

2. Retroactive. 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.

3. Substantial change of circumstances because of variance. If a child support order varies more than 15% from a parental support obligation determined under section 2006, the court or hearing officer shall consider the variation a substantial change of circumstances. This section does not apply to an existing order issued under section 2007 that deviated from the presumptive amount determined pursuant to section 2006.

4. Service. Except as provided in this section, a motion to modify support is governed by the Maine Rules of Civil Procedure.

A. Service in hand must be made upon the responding party, as follows:

(1) Service within the State must be made:

(a) By mailing a copy of the motion and accompanying documents by first class mail, postage prepaid, to the responding party, together with 2 copies of a notice and acknowledgement form and a return envelope, postage prepaid; or

(b) If no acknowledgement of service under division (a) is received by the sender within 20 days after the date of mailing, service of the summons and complaint may be made by a sheriff or a deputy within the sheriff's county, or other person authorized by law, or by

a person specially appointed by the court for that purpose;

(2) Service outside the State must be made:

(a) By registered mail or certified mail, restricted delivery and return receipt requested; or

(b) By a person authorized to serve civil process by the laws of the place of service, or by a person specially appointed to serve the motion and accompanying documents; or

(3) Service by any other method specifically approved by the court.

B. The motion must be accompanied by:

(1) A notice that the court may enter an order without hearing if the party does not request a hearing;

(2) A notice of the right to request a hearing;

(3) A notice of the requirement of mediation prior to a hearing;

(4) The income affidavit of the moving party or the party receiving the assistance of the department, as well as the responding party's affidavit, if available;

(5) A proposed order, incorporating the child support worksheet; and

(6) Any stipulation entered into by the parties.

5. Request for hearing. A request for hearing must be made in writing within 30 days of receipt of service and be accompanied by the requesting party's income affidavit and child support worksheet. If a party requests a hearing, the matter must be referred for mediation prior to trial.

6. Order without hearing. If a party does not request a hearing within 30 days after service, the court may enter an order modifying support without hearing using the proposed order, as long as the proposed modified support obligation is equal to or greater than the obligation resulting from the application of section 2005. If a downward deviation is proposed, the court shall hold a hearing prior to entering an order. The court may apply the presumptions set out in section 2004, subsection 1, paragraph D.

7. Motion to set aside. An order entered without hearing pursuant to this section may not be set

aside except on motion in which the moving party demonstrates good cause for the failure to request a hearing and a meritorious defense to the proposed order. The Chief Justice may establish costs to be paid by a party moving to set aside an order modifying child support after an order has been entered following that party's failure to file a timely written response.

§2010. Periodic review of support orders

1. Support obligations. In all cases in which the department is responsible for enforcement of a support obligation assigned to the department under section 2369, the department shall review, for compliance with the State's child support guidelines pursuant to this chapter, child support obligations established by orders issued by the courts of this State or by administrative decisions issued by the department. Reviews of child support orders in which the current support obligation is assigned to the department must occur no less often than every 3 years, except as provided by rule.

2. Request for support order reviews. In cases in which the department provides services pursuant to section 2103 and in which a child support obligation was established by an order issued by a court of this State or by an administrative decision issued by the department, an obligor or an obligee may request the department to review the support order for compliance with the State's child support guidelines pursuant to this chapter. In cases in which a support obligation is not assigned to the department under section 2369 and the department does not provide services pursuant to section 2103, a request to review a support order is made by applying to the department for child support services and indicating on the application for services a desire to have a child support order reviewed.

3. Administrative order modification; support modification. Following a review of an administrative child support order, the department may take action to modify the administrative order pursuant to section 2304. Following a review of a court order of child support, the department may file a motion to modify support pursuant to section 2009.

4. Adoption of rules. The department shall adopt rules governing the review of support orders consistent with this chapter and shall comply with the federal Family Support Act of 1988, 42 United States Code, Chapter 7, Part D.

5. Schedule of fees. The department may adopt by rule a schedule of fees for the services it provides under this section.

CHAPTER 65

SUPPORT ENFORCEMENT

SUBCHAPTER I

GENERAL PROVISIONS

§2101. Definitions

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

1. Board. "Board" means a bureau, board or commission listed in Title 10, section 8001 or 8001-A, other licensor that is affiliated with or is a part of the Department of Professional and Financial Regulation, the Board of Overseers of the Bar or any other state agency or municipality that issues a license authorizing a person to engage in a business, occupation, profession or industry.

2. Compliance with an order of support. "Compliance with an order of support" means that the support obligor is no more than 90 days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the department or in making periodic payments as set forth in an order of support and has obtained or maintained health insurance coverage if required by an order of support.

3. Custodial parent. "Custodial parent" means a natural or adoptive parent, caretaker relative or legal custodian of a dependent child who is the child's primary residential care provider.

4. Dependent child. "Dependent child" means any minor child who is not emancipated.

5. Disposable earnings. "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

6. Earnings. "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, and all gain derived from capital, from labor or from both combined, including profit gained through sale or conversion of capital assets, and unemployment compensation benefits and workers' compensation benefits.

7. License. "License" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry, but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

8. Licensee. "Licensee" means an individual holding a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry except an individual holding a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

9. Order of support. "Order of support" means a judgment or order for the support of dependent children issued by any court of the State or another state, including an order in a final decree of divorce or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

10. Order for spousal support; order for support; order for costs; spousal support order. "Order for spousal support," "order for support," "order for costs" or "spousal support order" means a judgment or order for spousal support or payment of money instead of spousal support, for support of children, for support pending a divorce action, for payment of related costs and attorney's fees or for alteration of an existing judgment or order for the custody or support of a child.

11. Public assistance. "Public assistance" means money payments and medical care furnished to or on behalf of dependent children by the State. It does not include assistance furnished by a political subdivision.

12. Responsible parent. "Responsible parent" means the natural or adoptive parent of a dependent child.

§2102. Enforcement of rights

The obligee may enforce the right of support against the obligor, and the State or any political subdivision of the State may proceed on behalf of the obligee to enforce that right of support against the obligor. When the State or a political subdivision of the State furnishes support to an obligee, it has the same right as the obligee to whom the support was furnished, for the purpose of securing an award for past support and of obtaining continuing support. The obligee's right of support includes an independent right to seek appropriate attorney's fees for handling the action. An award of attorney's fees may be collected by any means available under the law, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A.

§2103. Duty of department to enforce support obligations

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

A. "Applicant" means an individual, state, political subdivision of a state or instrumentality of a state.

B. "Support obligations" means the amount due an obligee for support under an order of support and includes any arrearages of support that have accrued.

2. Enforcement of support obligations. The department may, for a fee, locate absent parents, defend against support reductions, establish support obligations, seek motions to increase support obligations, enforce support obligations and determine paternity on behalf of applicants who are not recipients of public assistance, by actions under an appropriate statute, including, but not limited to, remedies established in subchapter II, article 3, to establish and enforce the support obligations. The department and the applicant shall sign an agreement in duplicate describing the fee. The department may defer or waive that fee.

3. Fees and costs. The department shall charge a fee of \$2 per week 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 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 is not 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.

4. Attorney's fees. The Office of the Attorney General or attorneys acting under Title 5, section 191 may seek appropriate attorney's fees at the prevailing community rate for legal representation of individuals under this section. An award of attorney's fees may be collected by any means available under the laws, including, but not limited to, remedies available under Title 14 and Title 36, section 5276-A.

5. State's role in support enforcement cases.

In a child support action brought by the department under this Title or Title 22, the department or prosecuting attorney represents solely the interest of the State in providing child support enforcement services under federal law. This section may not be construed to modify statutory mandate, authority or confidentiality required of any governmental agency, nor does representation by a prosecuting attorney create an attorney-client relationship between the attorney and any party, other than the State.

For the purpose of this subsection, "prosecuting attorney" means an assistant attorney general, an assistant district attorney, an attorney under contract or an attorney in the employ of the department.

6. Obligation established. The current support obligations in cases brought in accordance with this section are established pursuant to chapter 63. An obligation for past support due is established by application of the most current child support scale to the responsible parent's income for the time period in which the applicant was entitled to support payments and may include reimbursement for past medical expenses. 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 bar a determination of past debt due the applicant for any relevant period in which the disability did not exist.

If the responsible parent defaults or otherwise fails to appear, and no order of support has been established, the court or administrative hearing officer shall presume that the responsible parent has 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.

SUBCHAPTER II**ENFORCEMENT BY DEPARTMENT****Article 1****Location of Persons, Income and Other Property**

§2151. Locating those liable for support of dependents

At the request of the department, all departments, boards, bureaus and other agencies of this State shall provide information from their records to assist the department in locating parents who have deserted their children and other persons liable for support of dependents. Only information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support may be requested and used or transmitted by the department pursuant to the authority conferred by this section. The department may make such information available only to public officials and agencies of this State, other states and the political subdivisions of this State and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

§2152. Disclosure of information in medical support recoupment and child support cases

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

A. "Assets" means any interest in real or personal property.

B. "Medicaid recipient" means an individual authorized by the department to receive services under the provisions of the United States Social Security Act, Title XIX and successors to it.

2. Request for information concerning responsible parents. Except as provided in subsection 5, the department may request of any person information relating to the following matters concerning a responsible parent or alleged responsible parent:

A. Complete name;

B. Social security number;

C. Date and place of birth;

D. Present and past employment status;

E. Earnings;

F. Current or last known address;

G. Assets;

H. Availability and description of present or previous health insurance coverage for a dependent child; and

I. Health insurance benefits paid or applied for under a policy of health insurance for a dependent child.

3. Request for information concerning present and former Medicaid recipients. The department may request of any person information relating to the following matters concerning a present or former Medicaid recipient:

A. Availability and description of health insurance coverage; and

B. Health insurance benefits paid or applied for under a policy of health insurance.

4. Demand for information. If a response to a request under subsection 2 or 3 is not received by the department within 2 weeks of its mailing by regular mail, the department may serve a demand upon the person to whom the request was directed for the information sought. The demand may be served by certified mail, return receipt requested, or by service in hand as specified in the Maine Rules of Civil Procedure, except that a demand may be served by any authorized representative of the commissioner.

5. Limitation. If an alleged responsible parent is a putative father of a child conceived and born out of wedlock, a request or demand is limited to information relating to the following matters concerning the alleged responsible parent:

A. Complete name;

B. Date and place of birth;

C. Present and past employment status;

D. Social security number; and

E. Current or last known address.

6. Immunity from liability. Any person may disclose to the department any of the information described in subsection 2 or 3 that is sought in a request or demand by the department, the disclosure of which is not prohibited by federal or state statute or which is not privileged under the Maine Rules of Evidence, without incurring any liability to any other person because of the disclosure.

7. Affirmation of responses. The department may require that a response to a request or demand be affirmed under the penalties for unsworn falsification under Title 17-A, section 453.

8. Facilitation of responses. A request or demand must contain or be accompanied by a business-reply or prepaid self-addressed envelope.

9. Notice. At the time that the department makes a demand, it shall notify the responsible parent or alleged responsible parent by regular mail to the last known address.

10. Penalty for knowing failure to respond or for knowing failure or knowing refusal to disclose.

The penalty for knowing failure to respond or for knowing failure or knowing refusal to disclose is governed as follows.

A. Knowing failure to respond to a demand for information within 10 days following the date of service of the demand is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

B. Knowing refusal or knowing failure to disclose to the department any of the information described in subsection 2 or 3 that is sought in a demand for information by the department, the disclosure of which is not prohibited by federal or state statute, or which is not privileged under the Maine Rules of Evidence, is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

11. Confidentiality of information; unlawful dissemination; penalty. All information collected in connection with the department's child support enforcement activity and medical support recoupment pursuant to this section is confidential and available only for the use of appropriate departmental personnel and legal counsel for the department in carrying out their functions. A person is guilty of unlawful dissemination if that person knowingly disseminates information in violation of this subsection. Unlawful dissemination is a Class E crime, which, notwithstanding Title 17-A, section 1252, subsection 2, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

§2153. Publication of delinquent child support obligors

1. Publication. The department may publish in the State's newspapers the names of delinquent child support obligors who owe unpaid child support. Publication may include the place of residence and the amount of unpaid child support of each obligor.

2. Immunity. Newspapers and their employees are immune from any criminal or civil liability as a result of publication under subsection 1, unless publication is a result of negligent or intentional misconduct.

§2154. Employment information

1. Employment information. Upon notice by the department, and except as provided in subsection

2, an employer doing business in this State shall report to the department the:

A. Hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; and

B. Rehiring or return to work of an employee who was laid off, furloughed, separated, granted a leave without pay or terminated from employment.

2. Exceptions. An employer is not required to report the hiring of a person who:

A. Will be employed for less than one month's duration; or

B. Will have gross earnings of less than \$300 in every month.

The commissioner may adopt rules to establish additional exceptions if needed to reduce unnecessary or burdensome reporting.

3. W-4 form. An employer required to report under subsection 1 may report by mailing the employee's copy of the W-4 form, transmitting a facsimile of the W-4 form, sending magnetic tape in a compatible format or by other means, as mutually agreed to by the employer and the department, that will result in timely reporting.

4. Report. An employer shall submit a report within 7 days of the hiring, rehiring or return to work of the employee. The report must contain:

A. The employee's name, address, social security number and date of birth; and

B. The employer's name, address and employment security reference number or unified business identifier number.

5. Retention of records. The department may retain the information for a particular employee only if the department is responsible for establishing, enforcing or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the department may not create a record regarding the employee and the information contained in the report must be destroyed promptly.

6. Penalties. An employer who knowingly fails to report as required under this section must be given a written warning by the department for the first violation and is subject to a civil penalty of up to \$200 per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

§2155. Duty to report

A responsible parent required by law to pay child support to the department shall inform the department of any changes in the responsible parent's current address or employer. Failure to report a change of address or employer to the department within 15 days is a civil violation for which a forfeiture not to exceed \$200 may be adjudged for each violation. Each judicial order or administrative decision issued or modified in this State that includes an order for child support must include a statement that advises the responsible parent of the duty to report and the penalty for failure to report.

§2156. Annual statement

The department 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 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.

Article 2**Enforcement****§2201. Notice to licensing boards and obligor; judicial review**

1. Notice. The department may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the department's intention to submit the obligor's name to the appropriate board as a licensee who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may request an administrative hearing to contest the issue of compliance;

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to a board for non-compliance with an order of support pending a decision after hearing;

D. If the obligor does not request a hearing within 20 days of service and is not in compliance with an order of support, the department

shall certify the obligor to the appropriate board for noncompliance with an order of support;

E. If the department certifies the obligor to a board for noncompliance with an order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a written confirmation of compliance from the department that states the obligor is in compliance with the obligor's order of support. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002;

F. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to a board for non-compliance with an order of support; and

G. The obligor can comply with an order of support by:

(1) Paying current support;

(2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and

(3) Meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. Service of the notice must be made by certified mail, return receipt requested, or by service in hand as specified in the Maine Rules of Civil Procedure. For purposes of this section, authorized representatives of the commissioner may serve the notice.

2. Administrative hearing. An obligor may request an administrative hearing upon service of the notice described in subsection 1. The request for hearing must be made in writing and must be received by the department within 20 days of service. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be determined at hearing are limited to whether the

obligor is required to pay child support under an order of support and whether the obligor is in compliance with an order of support. The obligor may raise additional issues, including the reasonableness of a payment agreement in light of the obligor's current circumstances, to be preserved for appeal.

3. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

4. Appeal to Superior Court. If the obligor appeals the department's decision under subsection 3, the Superior Court may hear and determine issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

5. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a board for noncompliance with an order of support until the department issues a decision after hearing that finds the obligor is not in compliance with an order of support.

6. Certification of noncompliance. The department may certify in writing to the appropriate board that a support obligor is not in compliance with an order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 1 and is not in compliance with an order of support 21 days after service of the notice;

B. The department issues a decision after hearing that finds the obligor is not in compliance with an order of support and the obligor has not appealed the decision within the 30-day appeal period provided in subsection 3; or

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with an order of support.

The department shall send by regular mail a copy of a certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

7. Notice from board. A board shall notify an obligor certified by the department under subsection 6,

without undue delay, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the department as a support obligor who is not in compliance with an order of support.

8. Written confirmation of compliance. When an obligor who is served notice under subsection 1 subsequently complies with the official order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

10. Agreements. The department and the various boards shall enter into agreements that are necessary to carry out the requirements of this section, but only to the extent the department determines it is cost-effective.

11. Motion to modify order of support; stay. This section does not prohibit a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. The department shall stay action to certify the obligor to a board for noncompliance with an order of support if the obligor files a motion to modify support with the court and notifies the department of the motion or requests the department to amend a support obligation established by the department.

12. Reporting. On or before April 1, 1994, or as soon as economically feasible and at least annually, all boards subject to this section and the Department of Professional and Financial Regulation, Division of Administrative Services shall provide to the department specified information, on magnetic tape or other machine-readable form, according to standards established by the department, about applicants for licensure and all current licensees. The Department of Professional and Financial Regulation, Securities Division shall provide the specified information for only those current licensees that are residents of this State. The information to be provided must include all of the following information about the licensee:

A. Name;

B. Address of record;

C. Federal employer identification number or social security number;

D. Type of license;

E. Effective date of license or renewal;

F. Expiration date of license; and

G. Active or inactive status.

13. Effect of noncompliance. The department, upon receipt of the licensee information referred to in subsection 12, shall identify and notify each board and the Department of Professional and Financial Regulation, Division of Administrative Services, of the names of its licensees who are support obligors subject to this section. The notice must include the social security number and address of the support obligor, the name, address and telephone number of the department's designee for implementing this section and a certification by the department that it has verified that the licensee is a support obligor subject to this section. When the department notifies a board under this subsection, the department shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with an order of support. The board may not issue or renew a license to a person whose name is on the most recent list from the department until the board receives a copy of the written confirmation of compliance specified in subsection 8.

14. Subsequent reissuance, renewal or other extension of license or certificate. The board may reissue, renew or otherwise extend the license or certificate of authority in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection 8. A board may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

15. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1999 and biennially thereafter:

A. The number of support obligors identified as licensees subject to this section;

B. The number of support obligors identified by the department under this section who are not in compliance with a court order of support; and

C. The number of actions taken by the department under this section and the results of those actions.

§2202. Family financial responsibility

1. Purpose. The Legislature finds and declares that child support is a basic legal right of the State's parents and children, that mothers and fathers have a

legal obligation to provide financial support for their children and that child support payments can have a substantial impact on child poverty and state welfare expenditures. It is therefore the Legislature's intent to encourage payment of child support to decrease overall costs to the State's taxpayers while increasing the amount of financial support collected for the State's children. The department is authorized to initiate action under this section against individuals who are not in compliance with an order of support.

2. Notice. The commissioner may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the commissioner's intention to certify the obligor to the Secretary of State as an individual who is not in compliance with an order of support. The notice must inform the obligor that:

A. The obligor may contest the issue of compliance at an administrative hearing;

B. A request for hearing must be made in writing and must be received by the department within 20 days of service;

C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to the Secretary of State for noncompliance with an order of support pending a decision after hearing;

D. If the obligor does not timely request a hearing to contest the issue of compliance and does not obtain a written confirmation of compliance from the department, the commissioner shall certify the obligor to the Secretary of State for noncompliance with an order of support;

E. If the commissioner certifies the obligor to the Secretary of State, the Secretary of State must suspend any motor vehicle operator's licenses that the obligor holds and the obligor's right to apply for or obtain a motor vehicle operator's license;

F. If the obligor requests a hearing, the obligor shall direct the request to the department's support enforcement office that is responsible for handling the obligor's case;

G. If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to the Secretary of State for noncompliance with an order of support; and

H. The obligor can comply with an order of support by:

- (1) Paying current support;
- (2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and
- (3) Meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need for the obligor to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. The notice must be served by certified mail, return receipt requested, by service in hand, or as specified in the Maine Rules of Civil Procedure. For purposes of this section, an authorized representative of the commissioner may serve the notice.

3. Administrative hearing. An obligor may request an administrative hearing within 20 days of service of the notice described in subsection 2. The request for hearing must be in writing and must be received by the department within 20 days. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be determined at hearing are limited to whether the obligor is required to pay child support under an order of support and whether the obligor is in compliance with an order of support, although the obligor may raise additional issues, including the reasonableness of a payment agreement in light of the obligor's current circumstances, to be preserved for appeal.

4. Decision after hearing. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

5. Appeal to Superior Court. If the obligor appeals the department's decision under subsection 4, the Superior Court may hear and determine issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

6. Stay. If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to the Secretary of State for noncompliance with an order of support until the department issues a decision after hearing that finds the obligor is not in compliance with an order of support.

7. Certification. The commissioner may certify in writing to the Secretary of State that a support obligor is not in compliance with an order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 2 and is not in compliance with an order of support 21 days after service of the notice;

B. The department issues a decision after hearing that finds the obligor is not in compliance with an order of support and the obligor has not appealed the decision within the 30-day appeal period provided in subsection 4; or

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with an order of support.

The department shall send by regular mail a copy of a certification of noncompliance filed with the Secretary of State to the obligor at the obligor's most recent address of record.

8. Written confirmation of compliance. When an obligor who is served notice under subsection 2 subsequently complies with the order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

9. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

10. Agreement. The department may enter into an agreement with the Secretary of State to carry out the requirements of this section.

11. Motion to modify court order of support; stay. This section does not prohibit a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. The department shall stay action to certify the obligor to the Secretary of State for noncompliance with an order of support if the obligor files a motion to modify support with the court and notifies the department of the motion or requests the department to amend a support obligation established by the department.

12. Program review. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1999 and biennially thereafter:

A. The number of notices served upon support obligors by the department under this section;

B. The number of obligors served notice under this section who request a hearing;

C. The number of hearings held under this section, the results of the hearings and the number of cases settled without a hearing;

D. The number of support obligors certified to the Secretary of State for noncompliance with a court order of support under this section; and

E. The costs incurred in the implementation and enforcement of this section and the department's estimate of the amount of child support collected due to the department's actions under this section.

§2203. Order to seize and sell

1. Execution of support liens. The department may issue an order to seize and sell to execute a support lien established under former Title 19, section 503 or 503-A or section 2357 or to enforce and collect any money judgment assessed under chapter 51, chapter 53, chapter 55, chapter 63 or this chapter. 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, 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 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 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 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 that there is reasonable ground to believe 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 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 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;
- (3) The percentage share of ownership of all persons claiming an ownership interest in the property;
- (4) The amount of the debtor's interest in the property that is exempt; and
- (5) The value of the interest in the property owned by nonobligor parties with an interest superior to that of the department.

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. The department 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 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 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 the 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 the 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 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 may issue an order to seize and sell to collect a support lien or other money obligation under chapter 51, chapter 53, chapter 55, chapter 63 or this chapter 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 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.

Article 3

Alternative Method of Support Enforcement

Subarticle 1

General Provisions

§2251. Purpose

With this article, the Legislature intends to provide additional remedies for the enforcement of support for dependent children and spouses and former spouses caring for dependent children by establishing an alternative method directed to the real and personal property of the responsible parents. These remedies are in addition to, not in lieu of, existing law.

§2252. Limit on use

A support obligation or debt incurred before October 1, 1975 may not be enforced by the methods of this article.

§2253. Persons subject to jurisdiction

1. Declaration of purpose. It is declared, as a matter of legislative determination, that the public interest demands that the State provide its citizens with an effective means of redress against nonresident persons who, through certain significant minimal contacts with this State, incur obligations to citizens entitled to the State's protection.

This section, to ensure maximum protection to citizens of this State, must be applied so as to assert jurisdiction over nonresident responsible parents to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

2. Causes of action. A person who does any of the acts enumerated in this subsection is deemed to have submitted to the jurisdiction of the department for the purpose of enforcing this article as to a cause of action arising from the doing of the following acts:

A. Maintaining a domicile in this State while subject to a marital or family relationship out of which arises a claim for child support or spousal support or the commission in this State of any act giving rise to such a claim; or

B. Conception resulting in paternity within the meaning of chapter 53, subchapter I.

3. Personal service. Service of a notice sent pursuant to section 2304 upon a person who is subject to the jurisdiction of this article, as provided in this section, must be made by personally serving the notice upon the responsible parent outside this State, with the same force and effect as though it had been served personally within this State. Service of any other notice or lien provided for in this article upon a person who is subject to the jurisdiction of this article, as provided in this section, is governed by section 2254.

§2254. Service

Service of a notice or lien described in this article may be by certified mail, return receipt requested, by service in hand as specified in civil actions or by publication as specified in civil actions. For the purposes of this article only, authorized representatives of the commissioner may serve a notice or lien described in this article.

1. Date of service. Service is completed when the certified mail is received or refused, or when specified in civil actions for service in hand or by publication.

2. Branch banks. Service on a bank or other financial institution maintaining branch offices is only effective as to the accounts, credits or other personal property of the responsible parent in the particular branch on which service is made.

§2255. Subpoena powers

In carrying out the provisions of this article, the department, through a request to the Attorney General or to an assistant attorney general assigned to the department, upon its own motion or upon the request of a party, has the power to subpoena witnesses, compel their attendance and require the production of any papers, books, records or documents that are relevant to determining the support obligation and the responsible parent's ability to pay or earn.

Subpoenas must be issued in accordance with Title 5, section 9060 and served in accordance with the Maine Rules of Civil Procedure.

§2256. Notices; readability

1. Readability score. As notices are revised by the department and as resources permit, all notices provided by the department under this article must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level.

2. Report. Beginning in 1992 and ending in 1997, the department shall submit a one-page annual

report on or before February 15th regarding its activities under this section to the joint standing committee of the Legislature having jurisdiction over human resource matters. This subsection is repealed December 31, 1997.

Subarticle 2

Support Debt

§2301. Creation of debt to department

1. Public assistance. Debts due the department for public assistance are as follows.

A. When an 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 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 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 by administrative decision, the debt is limited to the amount stated in the decision.

B. When an order of support has been established, the debt due the department from the responsible parent is the amount established under that order.

(1) The debt may not be limited by the amount of public assistance paid for the benefit of the dependent child. Amounts collected by the department in excess of public assistance expended must be distributed pursuant to section 2401.

(2) The issuance of an order of support does not relieve the responsible parent of any liability for a debt that previously had accrued under paragraph A.

2. Failure to pay child or spousal support.

For actions initiated pursuant to section 2103, failure to pay support obligations under an order of support creates a debt due the applicant. Upon execution of a contract between the department and the applicant, the department may take action to establish, enforce or collect the debt under any appropriate statute, including, but not limited to, remedies contained in this article. The department is subrogated to the rights of the payee as provided in section 2351.

3. Default judgment. If the responsible parent defaults or otherwise fails to appear, and no order of support has been established, the court or administrative hearing officer shall presume that the responsible parent has 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 than the one specified by this subsection may be used if there is sufficient reliable evidence to conclude reasonably that the responsible parent earned a greater or lesser actual income.

4. Interstate cooperation. A payment of public assistance by another state for the benefit of a dependent child located within that state creates a debt due that state from a responsible parent in the amount of the public assistance paid. With the execution of an application for nonwelfare services between a state and a resident of that state, the state may request the department to enforce or collect any unpaid support debt belonging to the applicant. Upon written request by a state to the department, the department may attempt to collect either the welfare or nonwelfare debt by action under any appropriate laws, including, but not limited to, remedies established by this article.

§2302. Limitation of debt

A debt may not be incurred under section 2301 by a responsible parent while that parent receives public assistance for the benefit of a biological or adopted child of that parent. A debt previously incurred under section 2301 may not be collected from a responsible parent while that parent receives public assistance for the benefit of a biological or adopted child of that parent.

§2303. Right of support enforcement

If no order of support exists, the department has the right provided in section 2102 to enforce the duty of support.

§2304. Administrative establishment of parental support obligation; debt for past support; obligation to provide health insurance coverage

When an order of support has not been established, the department may establish the responsible parent's current parental support obligation pursuant to chapter 63, establish the responsible parent's debt for past support, including medical expenses, and establish the responsible parent's obligation to maintain health insurance coverage for each dependent child. The department may proceed on its own behalf or on behalf of another state or another state's instrumentality, an individual or governmental applicant for services under section 2103 or a person entitled by federal law to support enforcement services as a former recipient of public assistance. The department acting on behalf of another state, another state's instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5. Notwithstanding any other provision of law, a parental support obligation established under this section continues beyond the child's 18th birthday, if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws, is expelled or attains 19 years of age, whichever occurs first. For purposes of this section, "debt for past support" includes a debt owed to the department under section 2301, subsection 1, paragraph A, a debt owed under section 2103 and a debt that accrues under sections 1504 and 1554.

1. Notice of support order. The department shall serve the responsible parent with a notice that it intends to establish a support order and a blank income affidavit. The notice must state:

A. The names of both parents and the names of each dependent child;

B. The department's intention to establish a support order, which may include a periodic payment for current support, a debt for past support, including medical expenses, and an obligation to provide health insurance coverage;

C. That the responsible parent must submit a completed income affidavit to the department within 30 days;

D. That the department calculates a proposed support order based on the State's child support guidelines using all available information and, if there is a lack of sufficient reliable information about a parent's actual earnings for a current or past period, the department presumes for the purpose of establishing a current support obligation or a debt for past support that the responsible parent has or had an earning capacity equal to the average weekly wage as determined by the Department of Labor statistics for the applicable years;

E. That the department will send to the responsible parent by regular mail a copy of the proposed support order and the department's child support worksheets;

F. That the responsible parent may request a hearing in writing within 30 days of the date of mailing of the proposed support order;

G. That, if the department does not receive a timely request for hearing, it will issue a decision that incorporates the findings of the proposed support order and will send a copy of the decision to both parents by regular mail;

H. That, after a decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and

I. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency.

2. Proposed support order. After serving notice upon the responsible parent in accordance with subsection 1 and after more than 30 days have elapsed, the department shall calculate the responsible parent's parental support obligation and debt for past support pursuant to chapter 63. Based on its calculations under the support guidelines, the department shall issue a proposed support order. The proposed support order must include the department's calculations and state the amount of the responsible parent's current parental support obligation and debt for past support, including medical expenses, and must state the responsible parent's obligation to provide health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses. The department shall send a copy of the proposed support order to the responsible parent by regular mail, along with a copy of the department's child support worksheet. The proposed order must be accompanied by a notice that states:

A. That the responsible parent has the right to request a hearing within 30 days of the date of mailing of the proposed support order and that, if a hearing is requested, the department will send the responsible parent a notice of hearing by regular mail at least 30 days before the date of the hearing, along with a statement of the hearing rights described in subsection 3, paragraph A;

B. That, if the department does not receive a timely request for hearing, the department will issue a decision that incorporates the findings of the proposed support order into the department's

decision and will send a copy of the decision to both parents by regular mail;

C. That, if the department issues a decision that establishes a responsible parent's support obligation, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept; and

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of that debt to a consumer credit reporting agency.

3. Hearing. The hearing must be conducted according to rules adopted by the commissioner.

A. At the hearing, the responsible parent may present testimony, cross-examine witnesses and be represented by an attorney or other person. In rendering a decision, the department may not consider evidence that was not presented at the hearing.

B. When deciding the amount of the current parental support obligation, the debt for past support and the availability of health insurance coverage, the official conducting the hearing shall consider at least the following criteria:

(1) Each child's needs;

(2) The responsible parent's income and real and personal property;

(3) The responsible parent's ability to borrow;

(4) The responsible parent's ability to earn;

(5) The responsible parent's needs;

(6) Whether the responsible parent has a duty to support other dependents. In any case, each child for whom support is sought must benefit as much as any other dependent from the income and resources of the responsible parent;

(7) Whether the responsible parent has voluntarily incurred subsequent obligations that have reduced that parent's ability to pay support. This condition does not relieve the responsible parent of the duty to provide support;

(8) Whether employer-related or other group health insurance coverage is available to the responsible parent; and

(9) Whether the responsible parent's existing health insurance coverage may be extended to include each dependent child.

4. Decision. If a hearing is held, the department shall render a decision based on the hearing record and applicable state laws and rulemaking. If a request for hearing is not made in a timely manner or if the responsible parent does not appear at the hearing, the department shall issue a decision that incorporates the findings of the department's proposed support order. The department shall send a copy of the decision to both parents by regular mail. The decision must establish and state:

A. The responsible parent's duty to provide support, the amount of the current parental support obligation, the amount of any debt for past support including medical expenses, the obligation of the responsible parent to maintain health insurance coverage for each dependent child and to pay a proportionate share of uninsured medical expenses and that the responsible parent must provide written proof to the department of health insurance coverage that is required by the decision within 15 days of the responsible parent's receipt of the decision;

B. If an obligation for current support is established, an order for immediate income withholding is issued and made a part of the decision;

C. That, 30 days after the decision is issued, the department may enforce the decision by any lawful means, including immediate income withholding, lien and foreclosure, administrative seizure and disposition, order to withhold and deliver and tax refund intercept;

D. That, if the department establishes a debt for past support, the department may report the responsible parent and the amount of the debt to a consumer credit reporting agency;

E. That, if the responsible parent does not maintain health insurance coverage when required to do so by the department, the responsible parent may be held liable for all medical expenditures made by the department or the custodial parent on behalf of each dependent child; and

F. That the responsible parent may appeal the decision within 30 days of the date of mailing of the decision by requesting the department to hold an administrative review hearing.

5. Collection action. The department may initiate collection action 30 days after the date of mailing of a decision. If a decision includes an immediate income withholding order, the department may implement the withholding order to collect

current support immediately after the decision is issued.

6. Subsequent order. A decision under this section remains in effect until superseded by a subsequent order of support.

7. Request to set aside. Within one year of the mailing of a decision, the responsible parent may request the department to set aside the decision if the responsible parent shows good cause why the responsible parent did not request a hearing or did not appear at a hearing and presents a meritorious defense to the decision.

8. Amendment. A responsible parent may request an administrative hearing to amend a decision issued under this section prospectively based on a substantial change of circumstances. The department may seek to amend a decision issued under this section prospectively, based on a substantial change of circumstances, by using the same process permitted by this section for establishing a support obligation. When proceeding to amend a decision issued under this section, the department shall state in its notice of hearing that the purpose of the proceeding is to amend the responsible parent's support obligation based on a substantial change of circumstances.

Modification and termination of child support orders are governed by section 2009.

9. Enforcement. A decision under this section establishes a support obligation for purposes of enforcement under section 2103.

10. Provisions supplemental. The provisions of this chapter are in addition to other laws and rules that enable the department to establish child support obligations.

§2305. Effect and implementation of health insurance obligations; failure of responsible parent to comply

1. Responsible parent's failure to comply. If a responsible parent fails to obtain health insurance coverage as required by an administrative decision, that parent is liable for any expenses incurred, for each dependent child, 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 article or by judicial action.

2. Insurer's obligation under authorization. Upon receipt of a written authorization by a responsible parent to make health insurance payments to the department for each dependent child of that parent, whether or not public assistance is being expended for the benefit of each child, an insurer shall make all payments directly to the department until the authori-

zation is withdrawn. Upon receipt of authorization from the responsible parent, the department is subrogated to the rights of the responsible parent under the insurance policy for each child.

3. Insurer's obligation under order or decision and notice. Upon receipt of a copy of a court order or administrative decision establishing the obligation of a responsible parent to provide health insurance coverage for each dependent child of that parent, and receipt of a copy of a notice from the department that public assistance is being expended for the benefit of each dependent child of the responsible parent or that the department is furnishing support enforcement services to a person with whom each child resides other than the responsible parent, an insurer shall make all health insurance payments for each child directly to the department until otherwise notified by the department. In all such cases, the responsibility of the department is subrogated to the rights of the responsible parent under the insurance policy for each child.

4. Insurers to provide information. Upon request by the department, a nonprofit hospital or medical service organization authorized under Title 24 or an insurer authorized under Title 24-A shall provide to the department a list of persons who have health insurance coverage with that organization or insurer. The information must be transmitted in a manner prescribed by the department to allow electronic identification of responsible parents who have health insurance coverage.

§2306. Immediate withholding of earnings

1. Withholding order. A decision establishing or modifying a child support obligation under section 2304 must conform with this subsection.

A. The decision must provide for the withholding of amounts payable as child support, effective from the date of the decision, from the responsible parent's earnings, regardless of whether support payments by the responsible parent are in arrears. The withholding order must:

- (1) Specify the amount of earnings to be withheld. The amount must include \$2 per week in addition to the amount to be withheld for child support;
- (2) Specify the support enforcement case number; and
- (3) Direct that, upon receipt of a copy of the withholding order, a payor of earnings to the responsible parent shall:

(a) Immediately begin to withhold those earnings when earnings are usually paid to the responsible parent; and

(b) Send each amount of earnings withheld to the department at the address set forth in the withholding order within 10 days after each withholding of earnings.

B. This subsection does not apply if:

(1) A party demonstrates and the hearing officer finds that there is good cause not to require immediate withholding under this section; or

(2) A written agreement between the parties providing an alternative arrangement is filed with the hearing officer.

2. Priority of order. Notwithstanding any other law, a withholding order under this section has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not made for the purpose of enforcing or paying a child support obligation.

3. Obligations of payor of earnings. This subsection governs the obligations of a payor of earnings under this section.

A. Upon receipt of a copy of a withholding order, a payor of earnings to the responsible parent shall:

(1) Immediately begin to withhold earnings of the responsible parent when earnings are usually paid to the responsible parent; and

(2) Send each amount of earnings withheld to the department at the address set forth in the withholding order within 10 days after each withholding.

B. The payor shall include with all remittances of withheld earnings the responsible parent's support enforcement case number set forth in the withholding order.

C. The payor may combine amounts withheld for transmittal to the department from more than one responsible parent if the portion attributable to each responsible parent is separately designated, except that the payor may not combine amounts if that action would result in a responsible parent's withheld earnings being sent to the department more than 10 days from the withholding date.

D. The balance of earnings due the responsible parent must be paid to the responsible parent on the day that the responsible parent is usually paid.

4. Duration of order. A withholding order is binding upon the payor of earnings to the responsible parent until:

A. The order is superseded by another withholding order issued by the department under this subchapter;

B. The decision establishing the support obligation is superseded by a court order;

C. The payor has been released from the withholding order in writing by the department;

D. The child:

(1) If not attending secondary school, as defined in Title 20-A, section 1, becomes 18 years of age; or

(2) If attending secondary school, as defined in Title 20-A, section 1:

(a) Graduates, withdraws or is expelled from secondary school; or

(b) Becomes 19 years of age; or

E. The child is emancipated or adopted.

5. Payor to be held harmless. A payor of earnings to the responsible parent who honors a withholding order under this section is discharged from any liability or obligation to the responsible parent for earnings withheld in compliance with the order. The department shall defend and hold harmless a payor for honoring the order.

6. Notice of termination of payor-payee relationship. When the relationship between the payor of earnings and the responsible parent that provides for the payment of earnings to the responsible parent, whether the relationship is that of employer and employee or any other, is terminated, the payor shall, within 15 days of the termination, send the department a written notice of the termination. The notice must include:

A. The responsible parent's name, last known address and social security number;

B. The support enforcement case number;

C. The date of termination of the relationship of payor and payee; and

D. If known, the name and address of any new or other payor of earnings to the responsible parent.

7. Liability of payor; violations. A payor is liable, after service of the withholding order, for any earnings the payor fails to withhold and send to the department within 10 days of the day the payee is usually paid. The department may maintain an action against the payor for the earnings the payor did not withhold and send to the department or for the imposition of any of the following civil penalties, or both, plus attorney's fees and court costs.

A. A payor who knowingly fails to withhold earnings on the day earnings are usually paid to the responsible parent commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to withhold.

B. A payor who knowingly fails to send withheld earnings to the department within 10 days of the withholding commits a civil violation for which a forfeiture of not more than \$100 may be adjudged for each failure to timely send withheld earnings.

C. A payor who knowingly fails to send the notification required by subsection 6 commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

D. A payor who discharges from employment or refuses to employ a responsible parent, or who takes disciplinary action against a responsible parent employed by the payor, or who otherwise discriminates against the responsible parent because of the existence of the withholding order or the obligations imposed upon the payor by the order, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the responsible parent for compensatory and punitive damages for those actions, plus attorney's fees and court costs.

8. Other remedies. A withholding order under this section does not bar any judicial or administrative enforcement or collection action otherwise available under federal or state law regarding child or spousal support arrearages or a debt for public assistance under section 2301.

§2307. Discovery of past income

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 2103 if the evidence is reasonably available. The responsible parent has 30 days to supply evidence of past income if requested to

do so by the department. A request for evidence regarding past income may be made through an administrative form developed by the department.

Failure to provide the evidence, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the administrative hearing officer to draw a reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker within this State as defined by the most recent Department of Labor statistics.

§2308. Health insurance withholding order

1. Issuance of order. The department, on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent, may issue to a responsible parent's employer or other payor of income a health insurance withholding order to enforce a responsible parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the responsible parent. A health insurance withholding order must be accompanied by a sworn statement issued by an authorized representative of the commissioner that states that the responsible parent is required by a court order or administrative decision to obtain or maintain health insurance coverage or other health care services for each dependent child named in the health insurance withholding order and has failed to provide the department with proof of coverage as required by law.

2. Employer notice. A health insurance withholding order must be accompanied by an employer notice that contains the substance of subsections 3 to 16.

3. Duty to enroll. An employer or other payor of income served with a health insurance withholding order shall enroll each dependent child of the employee named in the withholding order as a covered person in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer, if the child is eligible for such coverage under the employer's enrollment provisions, and deduct any required premiums from the employee's earnings to pay for the insurance.

4. Choice of plan. If more than one plan is offered by the employer, the employer shall enroll each qualified child prospectively in the insurance plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, providing that the plan's services are available where the child resides. If the services of

the employee's plan or the least costly plan are not available where the child resides, the employer shall enroll each qualified child prospectively in the least costly plan that is available where the child resides.

5. Answer. An employer shall respond to a health insurance withholding order in writing within 30 days of service. The employer shall advise the department of the plan in which each child is enrolled or if a child is ineligible for any plan through the employer. The department shall include a preprinted answer form for the employer's use and shall include the form and a prepaid, self-addressed envelope with each health insurance withholding order.

6. Mistake of fact; affirmative defenses. A responsible parent may claim a mistake of fact or assert affirmative defenses to contest the issuance of a health insurance withholding order. The department shall establish by rule an administrative process for reviewing claims of mistake and investigating affirmative defenses.

7. Duration of order. A health insurance withholding order remains in force until the employee terminates employment, the employer or other payor of earnings is released from the order in writing by the department or release is ordered by a court.

8. Change of plan. After it is initially determined in response to a health insurance withholding order that a child is eligible for coverage, the employer must make subsequent enrollment changes to include the child if the group health insurance plan is changed and provide notices of any changes in coverage to the department.

9. Fee. The commissioner may establish by rule a fee that an employer may charge an employee for each withholding and for a change of plan.

10. Failure to honor. Failure of an employer or other payor of earnings to comply with the requirements of a health insurance withholding order is a civil violation for which the department may recover up to \$1,000 in a civil action.

11. Priority of order. A health insurance withholding order has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not for the purpose of enforcing or paying a child support obligation.

12. Employer protected. The department shall defend and hold harmless any employer or other payor of earnings who honors a health insurance withholding order.

13. Immunity. The employer may not be held liable for medical expenses incurred on behalf of a dependent child because of the employer's failure to

enroll the dependent child in a health insurance or health care plan after being directed to do so by the department.

14. Employee protected. An employer who discharges, refuses to employ or takes disciplinary action against a responsible parent, or who otherwise discriminates against that parent because of the existence of the order or the obligation the order imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the responsible parent for compensatory and punitive damages, plus attorney's fees and court costs.

15. Service. A health insurance withholding order must be served on the responsible parent's employer or other payor of earnings. Service may be by certified mail, return receipt requested, by an authorized representative of the commissioner, by personal service as permitted by the Maine Rules of Civil Procedure, Rule 4 or as otherwise permitted by sections 2253 and 2254. The department shall send a copy of the health insurance withholding order to the responsible parent at the responsible parent's most recent address of record.

16. Withholding orders combined. The department may combine a health insurance withholding order with a child support income withholding order issued under section 2306.

17. Rules. The department shall adopt rules to implement and enforce the requirements of this section.

Subarticle 3

Collection of Support Debt

§2351. Right of support enforcement when order exists

1. Subrogation of support rights. If an order of support or a spousal support order exists, the department is subrogated to the right of a dependent child, or person having custody of the child named in the order, to pursue any support action or administrative remedy to secure payment of the debt accrued or accruing under section 2301 and to enforce the order. The department is not required to seek an amendment to the order of support or to the spousal support order in order to subrogate itself to the rights of the payee. The department is not required to file a motion to intervene or join in any court proceeding in order to subrogate itself to the rights of the payee and to be treated as a party in any further proceedings regarding the support order.

2. Limits on subrogation. When payment of public assistance for the benefit of a dependent child has ceased, that child, or a person having the custody of the child named in the order, may pursue any support action or administrative remedy to secure payment of any support arrearage that accrued before or after the period of receiving public assistance and that is not part of the debt under section 2301. The department may not be subrogated to this right.

§2352. Notice of support debt when court order exists

When the department is subrogated to an order of support or a spousal support order under section 2351, the commissioner may issue to the responsible parent a notice of debt accrued or accruing under section 2301.

1. Notice of debt. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, notice of debt must include:

A. A statement of the debt accrued or accruing under section 2301;

B. A statement of the terms of the order of support, including the names of each dependent child;

C. A statement that any property of the debtor is subject to lien and foreclosure, administrative seizure and disposition, order to withhold and deliver or other collection actions and that any debt determined to be owed by the responsible parent may be reported to a consumer reporting agency;

D. A demand for payment of the support debt within 20 days of receipt of the notice of debt;

E. A statement that the net proceeds of any collection action will be applied to the satisfaction of the support debt;

F. A statement that the responsible parent has the right to request a hearing under section 2451, or, in the alternative, to seek relief in a court of proper jurisdiction;

G. A statement that at the administrative hearing only the following issues may be considered:

(1) The receipt of public assistance by the responsible parent;

(2) Uncredited cash payments;

(3) The amount of the debt accrued and accruing;

(4) The accuracy of the terms of the order of support as stated in the notice of debt; and

(5) The maintenance of any required medical or dental insurance coverage; and

H. A statement that the department will stay collection action upon receipt of a request for review under section 2451 or on service of pleadings filed in a court of proper jurisdiction.

2. Commencement of action. Actions to collect any debt accrued or accruing under section 2301 may commence after 20 days after the date of receipt of the notice of debt described in this section.

3. Demand for immediate payment. If the commissioner finds that the collection of any support debt accrued or accruing under section 2301 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 2357. An action under sections 2358, 2363 and 2364 may not be taken until the notice requirements of subsection 1 are met.

4. Stay of collection action. If the responsible parent requests review of a notice of debt accrued or accruing under section 2451, or seeks relief in a court of proper jurisdiction, and if the department receives the request or service of pleadings within 21 days after service of the notice of debt, the department shall stay the collection action. The department shall accept ordinary mail service of copies of all pleadings, which must be addressed to the department representative whose name appears on the face of the notice of debt. Service upon the department is in addition to any other service required under the Maine Rules of Civil Procedure.

§2353. Expeditious procedure during stay

When a responsible parent has requested a stay under section 2352, subsection 4 and that stay has been granted because the parent seeks relief in a court, the parent shall request, within 30 days of filing the papers with the court, that the court set the matter for hearing on the next available court date. If the responsible parent fails to make the request during that time, the department may remove the stay and proceed with the collection proceeding.

§2354. Interest of debt due

Interest of 6% per year on any support debt due or owing to the department under section 2301 may be collected by the commissioner.

§2355. Notice of requirement of prompt payment

In any case in which a debt is owed by a responsible parent under section 2301, the department shall notify the responsible parent, on any billing sent for the purpose of child support collection, that payment must be received in the month when due and that failure to make timely payment may result in child support being retained by the department that would otherwise be paid to that parent's child. The notice must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th-grade reading level.

§2356. Exemptions

The following exemptions apply to weekly earnings. The maximum part of the aggregate disposable earnings of a responsible parent for any workweek that is subject to garnishment or income withholding may not exceed:

1. Supporting spouse or dependent child.

When the individual is supporting that individual's spouse or dependent child, other than a spouse or child with respect to whose support that order is used, 50% of that individual's disposable earnings for that week; or

2. Not supporting spouse or dependent child.

When the individual is not supporting such a spouse or dependent child described in subsection 1, 60% of that individual's disposable earnings for that week.

With respect to the disposable earnings of any individual for any workweek, the 50% specified in subsection 1 is deemed to be 55% and the 60% specified in subsection 2 is deemed to be 65% if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period that is prior to the 12-week period that ends with the beginning of that workweek. In no event may the amount withheld exceed the limitations imposed by 15 United States Code, Section 1673.

§2357. Liens

1. Judgment. Twenty-one days after receipt by a responsible parent of a notice of debt under section 2352 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 2203.

This subsection is repealed October 1, 1998.

§2358. Order to withhold and deliver

The commissioner shall proceed as follows with respect to any order to withhold and deliver.

1. Service of order. The commissioner may serve on any person an order to withhold and deliver any property, including wages, that is due or belongs to the responsible parent when:

A. A lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357; or

B. Twenty-one days have elapsed from the date of receipt of a notice of debt under section 2352 or 30 days after the date of mailing to a responsible parent of a decision of the department that requires the responsible parent to pay child support.

2. Service on responsible parent. The order must also be served on the responsible parent.

3. Order; contents. The order to withhold and deliver must state the amount of the support debt accrued and accruing and the terms of former Title 19, section 503 or 503-A or sections 2357 and 2366 and

demand a listing of property, including wages, that is due or belongs to the responsible parent.

4. Answer. A person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

5. Withhold and deliver. A person served with an order to withhold and deliver shall withhold immediately any property, including wages, due to or belonging to the responsible parent. After 20 days from the date of receipt of this order and upon demand of the commissioner, the property of the responsible parent must be delivered to the commissioner.

6. Delivery of money. If the money is due under an express or implied contract, or if money is held subject to withdrawal by the responsible parent, the money must be delivered by check payable to the Treasurer of State.

7. Bond as alternative. Instead of the property of the responsible parent, the commissioner may accept a bond conditioned upon final determination of liability.

8. Effect of honoring order. A person who honors an order to withhold and deliver is discharged from any liability or obligation to the responsible parent for that property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

9. Term of order. The order to withhold and deliver remains in effect, requiring withholding of each successive earnings disbursement, until the amount of debt stated in the order has been withheld.

10. Priority of order. Notwithstanding any other provision of law, the order to withhold and deliver has absolute priority over previously filed orders against assets, earnings and assignments of earnings not for the enforcement of a child support obligation.

§2359. Expedited income withholding

1. Order to withhold; commissioner may serve. The commissioner may direct any person by order to withhold property, including wages, that is due or belongs to the responsible parent when the responsible parent has failed to make payments under a support order and the amount in arrears is at least equal to the support payable for one month. The commissioner shall serve the order on the person directed to withhold.

2. Notice of order to withhold. Prior to implementation of the order to withhold, the department shall serve a notice of intention to withhold to the responsible parent.

3. Content of notice. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice of intention to withhold must include the following statements:

A. The amount of the arrearage and the amount of the current support order;

B. The amount that will be withheld or the formula by which that amount will be determined;

C. That the withholding will apply to any current or subsequent period of employment;

D. That the responsible parent may contest the withholding by requesting a review pursuant to section 2451;

E. That the only basis for contesting the withholding is a mistake of fact;

F. That the request for review must be filed within 20 days of receipt of the notice of intention and that failure to request a review within 20 days will result in the department notifying the responsible parent's employer or other person holding property belonging to the responsible parent to begin withholding; and

G. That at the review hearing the responsible parent will have an opportunity to present the responsible parent's case; that the hearing officer's decision will be based on an evaluation of the facts, including the responsible parent's statement of the responsible parent's case; that the responsible parent will be informed of the decision; if withholding is to occur, the time within which the withholding will begin; and the information to be given to the employer or other payor.

4. Implementation of order to withhold.

Upon receipt of an order to withhold issued by the department, the employer or other payor shall immediately begin withholding from the income of the responsible parent the amount specified in the order. Sums withheld must be remitted to the department within 10 days of the date the responsible parent is paid. A person who honors an order to withhold issued under this section is discharged from any liability or obligation to the responsible parent for such property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

5. Priority of order. Withholding initiated under this section has priority over any other legal process under state law against the same wages.

6. Termination of withholding. The withholding must be terminated with regard to a current support obligation if:

A. The department is unable to forward funds to the obligee for 3 months. Funds not forwarded must be returned to the obligor and notice must be given to the obligor's employer or other payor to cease withholding;

B. The child or spousal support obligation has been eliminated by a subsequent court order;

C. The child has reached majority or has otherwise been emancipated; or

D. The child has been adopted.

The withholding may not be terminated while an arrearage remains, unless other provisions acceptable to the department for its repayment have been made.

§2360. Setoff of debts against lottery winnings

1. Notice to Bureau of Alcoholic Beverages and Lottery Operations. The department shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this section as the "bureau," of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action. Prior to paying any state lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who owe a child support debt to the State that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe child support debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's child support debt against the winnings. The bureau shall notify the winner of the winner's right to request a hearing before the department within 15 days of the winner's receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether post-liquidation events have affected the winner's liability. The decision of the department as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the department certifies to the bureau that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the bureau shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the bureau does not hear from the department within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.

2. Notice to Tri-state Lotto Commission. The department shall periodically notify the Tri-state Lotto Commission of all persons who owe the department a child support debt that has been liquidated by judicial or administrative action.

§2361. 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 an order of 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 may commence the action by ordering the obligor to appear at an office of the department, as long as 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. 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.

§2362. Release of excess withheld

If any person has, subject to an order to withhold and deliver, earnings, deposits, accounts or balances in excess of the amount of the debt claimed by the department plus \$100, that person may, without liability under this article, release the excess to the responsible parent.

§2363. Administrative seizure and disposition of property

The commissioner shall proceed as follows with respect to administrative seizure and disposition of property.

1. Seizure and surrender. When a lien has been filed pursuant to former Title 19, section 503 or 503-A or section 2357, 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 that property.

2. Disposition; notice. The commissioner, as soon as practicable after seizure, shall notify the responsible parent and any person claiming an interest in the property about the seizure and proposed disposition.

3. Disposition; optional methods. Either of the following methods may be used in the disposition of any property under this section:

A. The property seized may be disposed of in any commercially reasonable manner; or

B. The seized property may be turned over to the recipient of assistance for the express benefit

of the dependent child involved, if the commissioner and the responsible parent agree on the value of the property.

4. Bill of sale or deed. The commissioner may issue a bill of sale or deed to the purchaser. The bill of sale or deed is prima facie evidence of the right of the commissioner to make the sale and conclusive evidence of the regularity of the proceedings and transfers to the purchaser all right, title and interest of the responsible parent in the property.

§2364. Foreclosure on liens

The commissioner shall proceed as follows with respect to foreclosures on filed liens.

1. Liens on real property. Actions to foreclose liens on real property filed under former Title 19, section 503 or 503-A or section 2357 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 Title 19, section 503 or 503-A or section 2357 may be brought in the county where the lien is filed pursuant to the procedures of Title 14, chapter 509, subchapter III.

§2365. Release of lien or order to withhold

The commissioner may release a support lien or order to withhold and deliver on all or part of the property of the responsible parent or return seized property without liability, if the commissioner considers adequate an assurance of payment or if the collection of the debt will be facilitated. The release or return does not prevent further action to collect from the same or other property.

§2366. Employer or holder responsibility and liability

A person who fails to honor an order to withhold and deliver, an order for expedited withholding, or a duly executed assignment of earnings, or fails to surrender property under section 2363, is liable to the department in an amount equal to the debt that is the basis of the lien, order to withhold and deliver, order for expedited withholding, demand for surrender or assignment of earnings, together with costs, interest and reasonable attorney's fees.

When an order to withhold and deliver or assignment of earnings is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor's employer or other payor of funds shall notify the department of the termination within 30 days of the termination date. The notice must include the obligor's last known home address.

the obligor's social security number, the support enforcement case number and the name and address of the obligor's new employer or payor of funds, if known.

§2367. Employee protected

An employer may not discharge an employee because a support lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against an employer for violation of this section.

An employer who, in contravention of this section, discharges from employment, refuses to employ or takes disciplinary action against a responsible parent because of the existence of a lien, order to withhold and deliver or assignment of earnings and the obligations or additional obligations that it imposes upon the employer is subject to a fine in an amount not to exceed \$5,000.

§2368. Assignment of earnings

A person employing a person owing a support debt shall honor a duly executed assignment of earnings presented by the commissioner. This requirement to honor the assignment of earnings and the assignment of earnings itself are applicable whether the earnings are to be paid currently or in the future and continue in force until released in writing by the commissioner. Payment pursuant to an assignment of earnings presented by the commissioner serves as full acquittance under any contract of employment, and the State shall defend and hold harmless any person who honors the assignment of earnings. The commissioner is not liable for improper receipt of money under an assignment of earnings upon return of any money so received.

Notwithstanding any other provision of law, an assignment of earnings presented by the commissioner has absolute priority over previously filed orders against earnings and assignments of earnings not for the enforcement of a child support obligation.

An employee may not be discharged by reason of a presentation of an assignment of earnings.

§2369. Assignment of right of support enforcement

The receipt of public assistance for a child constitutes an assignment by the recipient to the department of all rights to support for the child, including any support unpaid at the time of assignment, as long as public assistance is paid.

The recipient is deemed to have appointed the commissioner as the recipient's attorney in fact to perform the specific act of endorsing over to the

department all drafts, checks, money orders or other negotiable instruments for support of the child.

§2370. Employer; payor compensation

The commissioner may by rule establish a processing fee that an employer or individual possessing property belonging to the responsible parent may charge for implementation of an order to withhold and deliver, assignment of earnings or expedited wage withholding.

Subarticle 4

Proceeds

§2401. Distribution of proceeds

1. Pro rata distribution when insufficient funds received. The following provisions apply when a responsible parent is under orders of support for more than one family of children and at least one family of children is either a recipient of public assistance or a beneficiary under section 2103. For purposes of this subsection, a "family of children" consists of all blood-related and adopted children of the responsible parent that reside apart from any other children that the responsible parent is under a court or administrative order to support.

A. If the department fails to receive sufficient funds to meet the responsible parent's current support obligation to all of the children of all of the families, the department shall distribute pro rata the funds received so that each family of children receives the percentage of the funds received that represents that family's share of current support when calculated from the responsible parent's total current support obligation for all families.

B. If the responsible parent makes a designation or otherwise directs a distribution to the families of children, the department shall distribute the funds received as provided in paragraph A if the designation or other direction would result in a distribution not in compliance with paragraph A.

C. The department shall distribute the funds received as provided in paragraph A regardless of the source of the collection of the funds.

D. The department must be held harmless as to any claim of the responsible parent for its distribution of funds received as provided in paragraph A.

2. Reduction of debt under section 2301. Any money realized by the department by proceedings under this article reduces the debt of a responsible parent under section 2301 and must be paid to the recipient of assistance for the express benefit of the

dependent children to the extent permissible by federal law and regulations.

§2402. Dedicated funds

All collections, fees and incentive payments received by the department from child support collections must be dedicated to reduce the State's General Fund share of Aid to Families with Dependent Children and to cover the costs of making such collections. The department may not expend more than \$2,654,000 in any fiscal year of incentive payment revenue for the purpose of covering the costs of making child support collections.

Subarticle 5

Review

§2451. Administrative review

Within 30 days of receiving notice of any action under this article, including an administrative decision establishing an obligation to provide health insurance and payment for other medical expenses, and including an administrative decision that did not establish an obligation to provide health insurance and payment for other medical expenses, the responsible parent or the department may move for a review of any action under this article by serving a request for review, together with an affidavit stating the grounds upon which the request is based, upon the other party. The department may review any action under this article without proceeding under this section. The department acting on behalf of another state or its instrumentality or a person residing in another state constitutes good cause within the meaning of Title 5, section 9057, subsection 5.

1. Notice of hearing. If the responsible parent moves for a review, within 7 days of receipt of the request for review the department shall send, by registered or certified mail, the responsible parent a notice of hearing setting a hearing date not less than 15 nor more than 30 days from the date of service of the request for review.

If the department moves for a review, the department shall serve along with the request for review a notice of hearing, setting a date not less than 15 nor more than 30 days from the date of service of the notice.

2. Hearing. The conduct of the hearing and rendering of any decision is as follows.

A. The hearing must be conducted according to rules adopted by the commissioner. The rules must provide both the moving and responding parties at least the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person and to

be notified of these rights in writing. The decision must be limited to evidence presented at the hearing.

B. If the hearing is on a notice of debt issued under section 2352, only the following issues may be considered:

- (1) The receipt of public assistance by the responsible parent;
- (2) Uncredited cash payments;
- (3) The amount of the debt accrued and accruing;
- (4) The accuracy of the terms of the court or administrative order as stated in the notice of debt; and
- (5) The maintenance of any required medical or dental insurance coverage.

C. The hearing officer shall render a decision within 30 days of the date on which the hearing was held.

D. Within 10 days of the decision being rendered, a copy of the decision together with a notice of the right to a judicial review must be sent to the responsible parent by ordinary mail.

3. Stay. If a pleading is filed in any court that requests modification of an order for support after a final administrative decision under this section is served on the responsible parent, the department's collection action may not be stayed. If a pleading is filed for judicial review of agency action, the collection action may be stayed as provided in Title 5, section 11004.

§2452. Complaint and inquiry unit

The department shall maintain a centralized system to receive and respond to complaints and inquiries from persons who are eligible for support enforcement services. The department shall also use the system to identify and eliminate chronic problems within the department's support enforcement program.

§2453. Judicial review

A person who is aggrieved by a final action of the commissioner under this article may file an action under the Maine Rules of Civil Procedure, Rule 80C seeking review of that action. Administrative remedies must be exhausted prior to such review.

SUBCHAPTER III

ENFORCEMENT BY COURT

§2601. Contempt

Upon a motion to enforce an order of support or costs, the court may issue summary process and may find the defaulting person guilty of contempt as provided under Title 14, section 252.

§2602. Support orders

1. Installment payments. In an order of support or costs, the court may include an order to pay specified installment payments as provided under Title 14, sections 3127 to 3136.

2. Future obligations. The court may order installment payments for future obligations under the decree. The court may enforce its decree ordering installment payments as provided under Title 14, sections 3127 to 3136. In enforcement actions under those sections, the person ordered to pay is deemed a judgment debtor and the person entitled to receive the payments a judgment creditor.

3. Disclosure hearing. The court may make an order under subsection 1 without a separate disclosure hearing, if the court has already determined the person's ability to pay and the person's receipt of money from a source other than a source that is otherwise exempt from trustee process, attachment and execution.

§2603. Enforcement of orders

Upon a motion to enforce a judgment of spousal support, support or costs, after notice and an opportunity for hearing, the court may make a finding of money due, render judgment for that amount, and order:

1. Execution and levy. Execution and levy as provided under Title 14, chapter 403;

2. Installment payments. Specified installment payments as provided under Title 14, sections 3127 to 3136, without a separate disclosure hearing, if the court has already determined the judgment debtor's ability to pay and the debtor's receipt of money from a source other than a source that is otherwise exempt from trustee process, attachment and execution;

3. Order to employer or payor of earnings. The employer or other payor of earnings to make direct payments, if the court has ordered installment payments under section 2602 or otherwise. This order has absolute priority over all previously filed orders against earnings and assignments of earnings not relating to enforcement of spousal support, child support or costs;

4. Attachment. Attachment as provided under Title 14, chapter 507;

5. Execution. Execution as provided under Title 14, chapter 509;

6. Other methods. Any other method of enforcement that may be used in a civil action; or

7. Security. The judgment debtor to give security, post a bond or give some other guarantee to secure payment of the judgment.

§2604. Garnishment of military retirement pay

Spouses and ex-spouses of retired military personnel may garnish by order of the court up to 50% of the disposable retired or retainer pay to satisfy child support orders and spousal support orders. This section applies regardless of the date of the child support order or spousal support order or the residence of the spouse or ex-spouse. For purposes of this section, "disposable retired or retainer pay" means the total monthly retired or retainer pay to which a retired military person is entitled, other than the retired pay of a member retired for disability under 10 United States Code, Chapter 61, less amounts excluded by 10 United States Code, Chapter 71, Section 1408.

§2605. Orders relating to the receipt of public assistance or support enforcement services

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

A. "Public assistance" means public assistance as provided under Title 22, section 3173, 3271 or 3741.

B. "Support enforcement services" means the services provided by the department under section 2103.

C. "Support order" means a decree or order for support of a child, for support pending a divorce action or for alteration of a custody or support order.

D. "Support payments" means money ordered to be paid directly to a parent for the support of a child.

2. Pleading public assistance or support enforcement services. In an action to establish a support order, enforce a support order, amend a support order or to collect support arrearages, if the child is receiving or has received public assistance in a relevant time period, the party bringing the action shall affirmatively plead that fact. If the party is receiving support enforcement services, the party shall affirmatively plead that fact.

3. Notice to State. In an action to establish a support order, enforce a support order, amend a

support order or to collect support arrearages, if the action relates to a period when the child has received, is receiving or will receive public assistance or the party is receiving support enforcement services, a copy of the motion or petition must be furnished by ordinary mail to the department at least 21 days before the hearing.

4. Health insurance. If a support order contains an order for a parent to provide health, medical or hospital insurance coverage and if the insured child is receiving public assistance, then the insuring parent shall provide the department with proof of the insurance coverage within 15 days of receipt of a copy of the order and with written notice of any change in that coverage within 15 days of the change.

5. State reimbursement. If a child is receiving public assistance, the support order must require that support payments be made to the department for the period of public assistance.

§2606. Discovery of past income in department support enforcement cases

The responsible parent has an obligation to supply evidence regarding past income in order to calculate the debt owed the department or an applicant for services under section 2103 if the evidence is reasonably available. A request for evidence regarding past income may be made through a document request pursuant to the Maine Rules of Civil Procedure, Rule 34.

Failure to provide the evidence in the time period set forth in the Maine Rules of Civil Procedure, Rule 34, absent a showing of good cause for failure to do so or notification to the department of good faith attempts to secure the information, allows the court to draw any reasonable inference from the evidence available, including an inference that the responsible parent had a greater earning capacity than the average weekly wage of a worker in this State as defined by the most recent Department of Labor statistics. This remedy is in addition to remedies available under rules of discovery.

§2607. Modification of support order

Modification of child support orders is governed by section 2009.

§2608. Effect and implementation of health insurance obligations; failure of responsible party to comply

1. Failure to obtain insurance. If an obligated parent fails to acquire health insurance coverage as required under section 1653, that parent is liable for any expenses incurred for that parent's dependent

children that would have been paid by the insurance coverage, regardless of who has incurred the expenses. Incurred liability may be enforced as a child support debt under chapter 65, subchapter II, article 3 or by judicial action.

2. Direct payment; parental authorization.

Upon receipt of a written authorization from an obligated parent to an insurer to make health insurance payments for that parent's dependent children to the obligee, the insurer shall make all payments directly to the obligee until the authorization is withdrawn. Upon receipt of such authorization from the obligated parent, the obligee is deemed subrogated to the rights of the obligated parent under the insurance policy for the children.

3. Direct payment; court order. Upon receipt of a copy of the court order establishing the obligation of an obligated parent to provide health insurance coverage for that parent's dependent children, and of a demand in writing for the health insurance coverage from the obligee, the insurer shall make all health insurance payments for the children directly to the obligee until otherwise notified by the obligee. In all such cases, the obligee is deemed subrogated to the rights of the obligated parent under the insurance policy for the children.

SUBCHAPTER IV

INCOME WITHHOLDING

§2651. Income withholding

1. Immediate income withholding; issuance of orders. In any action under this Title or Title 22 in which a court establishes or modifies a support order, the court shall issue an immediate income withholding order in accordance with the requirements of this subchapter, unless the court finds good cause or approves an alternative arrangement as provided in section 2657.

2. Immediate income withholding; modification of orders. Upon the motion of an obligee, an obligor or the department, the court shall modify a support order issued before October 13, 1993 to include an immediate income withholding order.

3. Immediate income withholding; implementation of orders. An immediate income withholding order may be implemented by the department for a recipient of the department's support enforcement services, by a support obligee who does not receive the department's support enforcement services or by a support obligor. An immediate income withholding order is implemented by serving an attested copy of the order upon the obligor's payor of income.

§2652. Provisions of withholding order

An immediate income withholding order must provide for the withholding from the obligor's income of amounts payable as child support, effective from the date of the support order, regardless of whether child support payments by the obligor are past due. The withholding order must include:

1. Amount withheld. The amount of income to be withheld for payment of the obligor's current parental support obligation;

2. Department member number. The obligor's department support enforcement member number, if applicable, and if known to the court;

3. Payor instructions. An instruction to the payor that, upon receipt of a copy of the withholding order, the payor shall:

A. Immediately begin to withhold the obligor's income when the obligor is usually paid;

B. Send each amount withheld to the department at the address set forth in the order within 10 days of the withholding; and

C. Identify each amount sent to the department by indicating the department's support enforcement member number, if known;

4. Notice regarding collection of arrearages. A notice that the withholding order may be used to collect arrearages in addition to current support;

5. Limitation on withholding. A notice that the amount of the withholding may not exceed the limitations imposed by 15 United States Code, Section 1673(b); and

6. Fees. A notice to the obligor and payor of income that the payor of income shall withhold and send to the department a fee of \$2 per week in addition to the amount withheld for child support.

§2653. Administering agency

The department shall adopt and administer procedures to receive, document and distribute all support payments collected pursuant to this subchapter. The commissioner may establish by rule a fee for use of these services. The department shall retain all fees and apply them toward the administration of the division of support enforcement and recovery.

§2654. Payor duty

A payor of income to an obligor named in a withholding order issued under this subchapter must comply with the provisions of the withholding order upon receipt of a copy of the order. The balance of

income due an obligor after withholding must be paid to the obligor on the day the obligor is usually paid. A payor may combine amounts withheld for transmittal to the department from more than one obligor if the portion attributable to each obligor is separately designated, except that the payor may not combine amounts if that action would result in an obligor's withheld income being sent to the department more than 10 days from the date of withholding.

§2655. Payor notice

The department shall develop and make available to the public a payor notice that complies with the requirements of the Social Security Act, Title IV-D and the regulations issued under that Act. Whenever the department, an obligee or an obligor implements a withholding order issued under this subchapter, the party that implements the withholding order shall provide the obligor's payor of income with the payor notice at the time of service of the withholding order.

§2656. Past-due support

1. Withholding order. Upon meeting the conditions of this section, the department or an obligee may use an income withholding order issued under this subchapter to collect past-due support. Past-due support may be collected in addition to or apart from current support. Notwithstanding the provisions of this section, the court may order payment of past-due support by income withholding upon a determination by the court of the amount past due. If the court so orders, the department or obligee need not proceed in accordance with this section and may issue the withholding order to collect the past-due support immediately.

2. Collection of past-due support by department. Before the department may implement an income withholding order issued under this section to collect past-due support, the department must establish the amount of support past due, unless the amount has been established by judicial or administrative action, agreement of the parties or by operation of law.

A. If the obligor's debt for past-due support has been established by judicial or administrative action, agreement of the parties or by operation of law, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support.

B. If the obligor's debt for past-due support is not established, the department may establish the amount past due by proceeding under section 2352, by asking the court to determine the amount past due or by reaching agreement with the obligor as to the amount past due. Once the obligor's debt for past-due support has been es-

tablished, the department shall serve the income withholding order upon the obligor's payor of income to collect the past-due support.

3. Collection of past-due support by private action. To collect past-due support by an income withholding order issued under this subchapter, an obligee who does not receive support enforcement services from the department must:

A. Determine that the amounts payable under the support order are equal to or greater than the amount due for 30 days; and

B. Serve written notice of the obligee's determination of past-due support upon the obligor at least 20 days before service of the determination of past-due support and a copy of the income withholding order upon the obligor's payor of income.

An obligee may serve an income withholding order upon the obligor's payor of income 21 days after service of the obligee's determination of past-due support upon the obligor unless the obligor files a motion for determination of past-due support with the court and an ex parte request for a stay of withholding in accordance with subsection 4. If the obligor does not file a motion for determination of past-due support with the court and request the court to issue an ex parte stay of withholding, the obligee may serve a copy of the obligee's determination of past-due support and a copy of the withholding order upon the obligor's payor of income. The obligee shall send copies of the determination of past-due support and the withholding order served upon the payor of income to the department by regular mail at the time of service. Upon receipt of the copies, the department shall issue a letter to the obligor and obligee that confirms receipt, provides a support enforcement case number to identify payments and explains the department's role as the administering agency.

4. Stay. The court may grant a stay of the withholding of past-due support claimed upon request of the obligor as long as the obligor timely files a motion for determination of past-due support. A stay issued by the court under this subsection must expire in 60 days and may be reissued only upon a showing by the obligor that the obligor has made reasonable efforts to obtain a hearing on the motion for determination of past-due support during the stay.

§2657. Good cause; alternative arrangements

The court may elect not to issue an immediate income withholding order under this subchapter if:

1. Written agreement. A written agreement between the parties providing an alternative arrangement is filed with and approved by the court; or

2. Demonstration of good cause. A party demonstrates and the court finds that there is good cause not to require immediate income withholding. For purposes of this subsection, a finding of good cause by the court must be based on a determination that immediate income withholding would not be in the best interest of the child and a showing by the responsible parent that any previously ordered support was paid timely. The court shall explain the basis for a finding of good cause in the support order.

§2658. Service of process

Service under this subchapter may be by certified mail or in accordance with the requirements of the Maine Rules of Civil Procedure, Rule 4. The department may serve an income withholding order as provided in section 2254.

§2659. Duration of withholding

1. Ended or released. An immediate income withholding order is binding upon an obligor's payor of income until:

A. The court orders withholding ended;

B. If the withholding order was implemented by the obligee as a private withholding action, the obligee releases the payor from the terms of the order in writing; or

C. The department releases the payor from the terms of the order in writing. The department shall issue a release to end immediate income withholding if the department is unable to forward funds to the obligee for 3 months, in which case the department shall return the funds to the obligor.

2. Support paid; refund. The department, or obligee if the obligee implemented the withholding order as a private action, shall issue promptly a release of the withholding order in all cases in which there is no longer a current support obligation and all past-due support has been paid. The department or obligee, as applicable, shall refund the obligor amounts withheld improperly because a release is not issued timely. An obligee is liable to the department for amounts received from the department that the obligee is not entitled to receive.

An income withholding order issued under this subchapter may not be released or ended if the obligor has a current parental support obligation or owes a debt for past-due support, unless the court finds good cause or approves an alternative arrangement for payment of support in accordance with section 2657.

§2660. Priority of order

Notwithstanding any other provision of law, an immediate income withholding order issued under this subchapter has priority over any previously filed attachment, execution, garnishment or assignment of income that is not made for the purpose of enforcing or paying child or spousal support.

§2661. Notice of termination

When a payor of income is unable to continue withholding from an obligor's income because the relationship between the payor and obligor ends, the payor shall send the department a written notice of termination within 15 days. The notice must include:

1. **Obligor's identification.** The obligor's name, last known address and social security number;
2. **Department case number.** The obligor's department support enforcement case number;
3. **Termination date.** The date of termination of the relationship; and
4. **New payor.** If known, the name and address of a new payor of income to the obligor.

§2662. Payor liability

Upon service of an immediate income withholding order, a payor is liable for any income that the payor knowingly fails to withhold and send to the department within 10 days of the day on which the obligor is usually paid. The department, or obligee if the obligee implemented the withholding order as a private action, may maintain a civil action against the payor for the income the payor does not withhold and send to the department as required by the withholding order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs.

1. **Failure to withhold.** A payor who knowingly fails to withhold income when income is usually paid to the obligor commits a civil violation for which a forfeiture not to exceed \$100 for each failure to withhold may be adjudged.
2. **Failure to send income withheld.** A payor who knowingly fails to send income withheld to the department within 10 days of its withholding commits a civil violation for which a forfeiture not to exceed \$100 for each failure to timely send income withheld from an obligor may be adjudged.
3. **Failure to notify.** A payor who knowingly fails to send the notification required by section 2661 commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

4. Discrimination against obligors. A payor who discharges from employment or refuses to employ an obligor or who takes disciplinary action against an obligor employed by the payor or who otherwise discriminates against the obligor because of the existence of an income withholding order or the obligations imposed upon the payor by the order is subject to a civil penalty not to exceed \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the obligor for compensatory and punitive damages for those actions, plus attorney's fees and court costs.

§2663. Payor fee

The commissioner may establish by rule a fee for the administrative cost of each withholding that a payor may deduct in addition to the amount withheld for support.

§2664. Attested copies

The clerk of the court shall send to the department an attested copy of each order in which a child support obligation is established or modified and an attested copy of the immediate income withholding order.

§2665. Application for services

The department shall furnish and the clerk of the court shall make available to all individuals awarded child support application forms and blank contracts for the department's support enforcement services. The department shall also furnish the clerk with forms that enable an individual to refuse services. The clerk shall send to the department all application forms, contracts and refusal forms submitted together with the attested copies of the orders that the clerk is required to send the department under section 2664. Each individual who is awarded child support by the court must complete either the application form and contract or the form for refusal of services. The court shall inform a person who is awarded child support that that person must complete either the application and contract for services or the form to refuse services and submit them to the clerk.

§2666. Spousal support

Awards for spousal support are subject to immediate income withholding under this subchapter if the award is for a period during which child support is awarded.

§2667. Payor immunity

A payor of income who honors an income withholding order under this subchapter may not be held liable by the obligor for income withheld in compliance with the order.

§2668. Other remedies

An income withholding order issued under this subchapter is an additional remedy to enforce a support order and does not limit the use of other legal remedies that may be available for collection of child and spousal support.

§2669. Rulemaking

The department shall adopt rules to implement its responsibilities under this subchapter.

CHAPTER 67**UNIFORM INTERSTATE FAMILY SUPPORT ACT****SUBCHAPTER I****GENERAL PROVISIONS****§2801. Short title**

This chapter may be known and cited as the "Uniform Interstate Family Support Act."

§2802. Definitions

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

1. Child. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

2. Child support order. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

3. Duty of support. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.

4. Home state. "Home state" means the state in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state in which the child lived from birth with a parent or a person acting as parent. A period of temporary absence of a parent or a person acting as parent is counted as part of the 6-month or other period.

5. Income. "Income" includes earnings or other periodic entitlements to money from any source and

any other property subject to withholding for support under the law of this State.

6. Income-withholding order. "Income-withholding order" means an order or other legal process directed to an obligor's employer, as provided by chapter 65, subchapter IV, to withhold support from the income of the obligor.

7. Initiating state. "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

8. Initiating tribunal. "Initiating tribunal" means the authorized tribunal in an initiating state.

9. Issuing state. "Issuing state" means the state in which a tribunal issues a support order or enters a judgment determining parentage.

10. Issuing tribunal. "Issuing tribunal" means the tribunal that issues a support order or enters a judgment determining parentage.

11. Law. "Law" includes decisional and statutory law and rules and regulations having the force of law.

12. Obligee. "Obligee" means:

A. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been entered;

B. A state or political subdivision to which the rights under a duty of support or support order have been assigned or that has independent claims based on financial assistance provided to an individual obligee; or

C. An individual seeking a judgment determining parentage of the individual's child.

13. Obligor. "Obligor" means an individual or the estate of a decedent:

A. Who owes or is alleged to owe a duty of support;

B. Who is alleged but has not been adjudicated to be a parent of a child; or

C. Who is liable under a support order.

14. Register. "Register" means to file a support order or judgment determining parentage in the registry of foreign support orders.

15. Registering tribunal. "Registering tribunal" means a tribunal in which a support order is registered.

16. Responding state. "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.

17. Responding tribunal. "Responding tribunal" means the authorized tribunal in a responding state.

18. Spousal support order. "Spousal support order" means a support order for a spouse or former spouse of the obligor.

19. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

20. State information agency. "State information agency" in this State is the Department of Human Services.

21. Support enforcement agency. "Support enforcement agency" means a public official or agency authorized to seek:

- A. Enforcement of support orders or laws relating to the duty of support;
- B. Establishment or modification of child support;
- C. Determination of parentage; or
- D. The location of obligors or their assets.

The support enforcement agency in this State is the Department of Human Services.

22. Support order. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health care, arrearages or reimbursement. "Support order" may include related costs and fees, interest, income withholding, attorney's fees and other relief.

23. Tribunal. "Tribunal" means a court, administrative agency or quasi-judicial entity autho-

rized to establish, enforce or modify support orders or to determine parentage.

24. Tribunal of this State. A "tribunal of this State" means the District Court, the Superior Court or the Department of Human Services.

§2803. Remedies cumulative

Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

SUBCHAPTER II

JURISDICTION

Article 1

Extended Personal Jurisdiction

§2851. Bases for jurisdiction over nonresident

In a proceeding to establish, enforce or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

1. Personal service. The individual is personally served with notice within this State;

2. Submits to jurisdiction. The individual submits to the jurisdiction of this State by consent, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

3. Resided with child. The individual resided with the child in this State;

4. Resided and provided expenses or support. The individual resided in this State and provided prenatal expenses or support for the child;

5. Child resides. The child resides in this State as a result of the acts or directives of the individual;

6. Intercourse. The individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse; or

7. Any other basis. There is any other basis consistent with the Constitution of Maine and the United States Constitution for the exercise of personal jurisdiction.

§2852. Procedure when exercising jurisdiction over nonresident

A tribunal of this State exercising personal jurisdiction over a nonresident under section 2851 may apply section 3016 to receive evidence from

another state and section 3018 to obtain discovery through a tribunal of another state. In all other respects, subchapters III, IV, V, VI and VII do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this subchapter.

Article 2

Proceedings Involving 2 or More States

§2901. Initiating and responding tribunal of this State

Under this chapter, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

§2902. Simultaneous proceedings in another state

1. Exercise of jurisdiction when filed in another state. A tribunal of this State may exercise jurisdiction to establish a support order when the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

- A. The petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;
- B. The contesting party timely challenges the exercise of jurisdiction in the other state; and
- C. When relevant, this State is the home state of the child.

2. Jurisdiction may not be exercised when filed in another state. A tribunal of this State may not exercise jurisdiction to establish a support order when the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

- A. The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;
- B. The contesting party timely challenges the exercise of jurisdiction in this State; and
- C. When relevant, the other state is the home state of the child.

§2903. Continuing, exclusive jurisdiction

1. Tribunal has continuing, exclusive jurisdiction. A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child support order:

- A. As long as this State remains the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued; or
- B. Until each individual party has filed written consent with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

2. Tribunal may not exercise continuing, exclusive jurisdiction. A tribunal of this State issuing a child support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this chapter.

3. Modification by another state's tribunal. If a child support order of this State is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State and may only:

- A. Enforce the order that was modified as to amounts accruing before the modification;
- B. Enforce nonmodifiable aspects of that order; and
- C. Provide other appropriate relief for violations of that order that occurred before the effective date of the modification.

4. Recognition of jurisdiction of another state's tribunal. A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order pursuant to a law substantially similar to this chapter.

5. Temporary support order. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

6. Jurisdiction over spousal support order. A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this State may not modify a spousal support order issued by a tribunal of another state having

continuing, exclusive jurisdiction over that order under the law of that state.

§2904. Enforcement and modification of support order by tribunal having continuing jurisdiction

1. Initiating tribunal to enforce or modify. A tribunal of this State may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

2. Responding tribunal to enforce or modify. A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 3016 to receive evidence from another state and section 3018 to obtain discovery through a tribunal of another state.

3. Responding tribunal to modify spousal support. A tribunal of this State that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Article 3

Reconciliation with Orders of Other States

§2951. Recognition of child support orders

1. Recognition of orders. If a proceeding is brought under this chapter, and one or more child support orders have been issued in this State or another state with regard to an obligor and a child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction.

A. If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

B. If 2 or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals has continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized.

C. If 2 or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

D. If 2 or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this State may issue a child support order, which must be recognized.

2. Tribunal having continuing, exclusive jurisdiction. The tribunal that has issued an order recognized under subsection 1 is the tribunal having continuing, exclusive jurisdiction.

§2952. Multiple child support orders for 2 or more obligees

In responding to multiple registrations or petitions for enforcement of 2 or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this State shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

§2953. Credit for payments

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

SUBCHAPTER III

CIVIL PROVISIONS OF GENERAL APPLICATION

§3001. Proceedings under this Act

1. Application of subchapter. Except as otherwise provided in this chapter, this subchapter applies to all proceedings under this chapter.

2. Proceedings. This chapter provides for the following proceedings:

A. Establishment of an order for spousal support or child support pursuant to subchapter IV;

B. Enforcement of a support order and income-withholding order of another state without registration pursuant to subchapter V;

C. Registration of an order for spousal support or child support of another state for enforcement pursuant to subchapter VI;

D. Modification of an order for child support or spousal support issued by a tribunal of this State pursuant to subchapter II, article 2;

E. Registration of an order for child support of another state for modification pursuant to subchapter VI;

F. Determination of parentage pursuant to subchapter VII; and

G. Assertion of jurisdiction over nonresidents pursuant to subchapter II, article 1.

3. Commencement of proceeding. A proceeding authorized under this chapter may be commenced in any of the following ways.

A. An individual petitioner from another state or a support enforcement agency of another state may file a petition with the department.

B. An individual petitioner from another state or a support enforcement agency of another state may file a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent. The resulting order may be forwarded to the department.

C. An individual petitioner in this State or the department may file a petition with 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. The resulting order may be forwarded to a responding tribunal in another state.

E. The department may file a petition with the court in this State for forwarding to a tribunal in another state.

§3002. Action by minor parent

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

§3003. Application of law of this State

Except as otherwise provided by this chapter, a responding tribunal of this State shall:

1. Procedural and substantive law; powers and remedies. Apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

2. Determine duty and amount of support. Determine the duty of support and the amount payable

in accordance with the law and support guidelines of this State.

§3004. Duties of initiating tribunal

Upon the filing of a petition authorized by this chapter, an initiating tribunal of this State shall forward 3 copies of the petition and its accompanying documents:

1. To responding tribunal or agency. To the responding tribunal or appropriate support enforcement agency in the responding state; or

2. To the state information agency. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

§3005. Duties and powers of responding tribunal

1. Duties of responding tribunal. Upon receipt of a petition or comparable pleading from the state information agency, a responding tribunal shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

2. Powers of responding tribunal. A responding tribunal of this State, to the extent otherwise authorized by law, may:

A. Issue or enforce a support order, modify a child support order or render a judgment to determine parentage;

B. Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

C. Order income withholding;

D. Determine the amount of any arrearages and specify a method of payment;

E. Enforce orders by civil or criminal contempt, or both;

F. Set aside property for satisfaction of the support order;

G. Place liens and order execution on the obligor's property;

H. Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment and telephone number at the place of employment;

I. Issue a capias for an obligor who has failed after proper notice to appear at a hearing ordered

by the tribunal and enter the capias in any local and state computer systems for criminal warrants;

J. Order the obligor to seek appropriate employment by specified methods;

K. Award reasonable attorney's fees and other fees and costs; or

L. Grant any other available remedy.

3. Calculations included. A responding tribunal of this State shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

4. Support not conditional on visitation. A responding tribunal of this State may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

5. Copies of order. If a responding tribunal of this State issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

§3006. Inappropriate tribunal

If a petition or comparable pleading is received by an inappropriate tribunal of this State, the inappropriate tribunal shall forward the petition or pleading and accompanying documents to an appropriate tribunal or to the state information agency in this State or another state.

§3007. Duties of the department as the support enforcement agency

1. Services to petitioner. The department, upon application and request by an individual or upon request of the support enforcement agency of another state, shall provide services to a petitioner in a proceeding under this chapter.

2. Duties. If the department provides services to the petitioner, the department shall:

A. Take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the respondent;

B. Request an appropriate tribunal to set a date, time and place for a hearing;

C. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

D. Within 2 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice from an initiating, responding or registering tribunal, send a copy of the notice by first class mail to the petitioner;

E. Within 2 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

F. Notify the petitioner if jurisdiction over the respondent can not be obtained.

3. No attorney or fiduciary relationship. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between the department or the attorney for the department and the individual being assisted by the department.

§3008. Duty of Attorney General

The Attorney General shall represent the department in court proceedings brought pursuant to this chapter.

§3009. Private attorney

An individual may employ a private attorney to represent the individual in proceedings authorized by this chapter.

§3010. Duties of the department as the state information agency

1. Duties. The department shall:

A. Compile and maintain a current list, including addresses, of the tribunals in this State that have jurisdiction under this chapter and the department and transmit a copy to the state information agency of every other state;

B. Maintain a register of the lists of tribunals and support enforcement agencies received from other states;

C. Accept from initiating states all petitions and requests for registration. If the department determines that appropriate remedies under chapter 53, subchapter II and chapter 65, subchapter II, article 3 are not available with respect to the obligor, the department shall forward the petition or the documents required for registration to the appropriate court; and

D. Upon application and request by an individual or upon request by the support enforcement agency of another state, obtain information con-

cerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses and social security.

§3011. Pleadings and accompanying documents

1. Petition; contents. A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under section 3012, the petition or accompanying documents must provide, so far as known, the names, residential addresses and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

2. Specify relief sought. The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

§3012. Nondisclosure of information in exceptional circumstances

Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

§3013. Costs and fees

1. No fees or costs by petitioner. The petitioner may not be required to pay a filing fee or other costs.

2. Fees and costs if obligee prevails. If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or expenses against the obligee or the support

enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

3. Costs and fees if hearing for delay. The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under subchapter VI, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

§3014. Limited immunity of petitioner

1. Personal jurisdiction in another proceeding. Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney or through services provided by the department, does not confer personal jurisdiction over the petitioner in another proceeding.

2. Not amenable to service. For the purpose of participating in a proceeding under this chapter, a petitioner is not amenable to service of civil process while physically present in this State.

3. Not applicable to unrelated acts. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this State for the purpose of participating in a proceeding under this chapter.

§3015. Nonparentage as defense

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

§3016. Special rules of evidence and procedure

1. Physical presence of petitioner not required. The physical presence of the petitioner in a responding tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

2. Admissible evidence. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, are admissible in evidence if given under oath by a party or witness residing in another state.

3. Copy of payment record admissible. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

4. Copies of bills admissible. Copies of bills for testing for parentage and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

5. No objection based on means of transmission. Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier or other means that does not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

6. Testimony not in person. In a proceeding under this chapter, a tribunal of this State may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

7. Adverse inference from refusal to answer. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

8. No spousal privilege. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

9. No familial immunity. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

§3017. Communications between tribunals

A tribunal of this State may communicate with a tribunal of another state in writing or by telephone or other means to obtain information concerning the laws of that state; the legal effect of a judgment, decree or order of that tribunal; and the status of a proceeding in the other state. A tribunal of this State may furnish similar information by similar means to a tribunal of another state.

§3018. Assistance with discovery

A tribunal of this State may:

1. Request another state's tribunal. Request a tribunal of another state to assist in obtaining discovery; and

2. Compel response. Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

§3019. Receipt and disbursement of payments

The department shall disburse promptly any amounts received pursuant to a support order as directed by the order. The department 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.

SUBCHAPTER IV

ESTABLISHMENT OF SUPPORT ORDER

§3051. Petition to establish support order

1. Responding tribunal may issue support order. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this State may issue a support order if:

A. The individual seeking the order resides in another state; or

B. The support enforcement agency seeking the order is located in another state.

2. Responding tribunal may issue temporary support order. A responding tribunal of this State may issue a temporary support order pursuant to the laws of this State.

3. Tribunal shall issue support order. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 3005.

SUBCHAPTER V

DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

§3101. Enforcement of income-withholding order of another state

1. Income-withholding order. Upon application and request by an individual, upon request of the support enforcement agency of another state or pursuant to an assignment of rights, the department may implement an income-withholding order issued by another state in the same manner as an income-withholding order issued under chapter 65, subchapter IV. An income-withholding order implemented by the

department under this section has the same effect and creates the same obligations as an income-withholding order implemented under chapter 65, subchapter IV. The obligor's employer or other payor of income shall send all payments withheld from the obligor's income to the department for credit and disbursement.

2. Right to hearing. An obligor may request an administrative hearing to contest withholding. Section 3153 applies to the hearing. The department shall notify the obligor of the right to hearing when withholding is implemented.

§3102. Administrative enforcement of orders

1. Documents to state information agency. A party residing in another state seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state shall send the documents required for registering the order to the department.

2. Consider and enforce. Upon receipt of the documents, the department, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the order can not be enforced using available administrative procedures, the department may register the support order or the income-withholding order with the appropriate court.

SUBCHAPTER VI

ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

Article 1

Registration and Enforcement of Support Order

§3151. Procedure to register order for enforcement

1. Required documents and information. The department may 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.

2. File as foreign judgment. Upon receipt of a request for registration, the registering tribunal shall file the order as a foreign judgment, together with one copy of the documents and information, regardless of their form.

3. Additional petition filed at same time. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration, or later. The pleading must specify the grounds for the remedy sought.

§3152. Effect of registration for enforcement

1. Registered when filed. A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this State.

2. Enforceability of registered order. A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

3. Recognition and enforcement of registered order; no modification. Except as otherwise provided in this article, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

§3153. Choice of law

1. Current payments, other obligations and arrearages under order. The law of the issuing state governs the nature, extent, amount and duration of current payments and other obligations of support and the payment of arrearages under the order.

2. Proceeding for arrearages. In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing state, whichever is for a longer period of time, applies.

Article 2

Contest of Validity or Enforcement

§3201. Notice of registration of order

1. Time and method of notice. When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

2. Contents of notice. The notice must inform the nonregistering party:

A. That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

B. That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

C. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

D. Of the amount of any alleged arrearages.

§3202. Procedure to contest validity or enforcement of registered order

1. Timing and remedies. A nonregistering party seeking to contest the validity or enforcement of a registered order in this State must request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 3203.

2. Order confirmed if contest not timely. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

3. Notice of hearing to the parties. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for

hearing and give notice to the parties by first class mail of the date, time and place of the hearing.

§3203. Contest of registration or enforcement

1. Defenses to contest validity or enforcement.

A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

A. The issuing tribunal lacked personal jurisdiction over the contesting party;

B. The order was obtained by fraud;

C. The order has been vacated, suspended or modified by a later order;

D. The issuing tribunal has stayed the order pending appeal;

E. There is a defense under the laws of this State to the remedy sought;

F. Full or partial payment has been made; or

G. The statute of limitation under section 3153 precludes enforcement of some or all of the arrearages.

2. Full or partial defense. If a party presents evidence establishing a full or partial defense under subsection 1, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the laws of this State.

3. Confirmation of order. If the contesting party does not establish a defense under subsection 1 to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

§3204. Confirmed order

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Article 3

Registration and Modification of Child Support Order

§3251. Procedure to register child support order of another state for modification

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this State in the same manner provided in article 1 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

§3252. Effect of registration for modification

A tribunal of this State may enforce a child support order of another state registered for purposes of modification in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of section 3253 have been met.

§3253. Modification of child support order of another state

1. Modification of order issued in another state. After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if, after notice and hearing, it finds that:

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

B. An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order.

2. Modification, enforcement and satisfaction. Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

3. No modification. A tribunal of this State may not modify any aspect of a child support order

that may not be modified under the law of the issuing state.

4. Modification order; continuing, exclusive jurisdiction. Upon issuance of an order modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

5. Filing of modified order. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and with each tribunal in which the party knows that the earlier order has been registered.

§3254. Recognition of order modified in another state

A tribunal of this State shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

1. Enforce amounts accruing before modification. Enforce the order that was modified only as to amounts accruing before the modification;

2. Enforce nonmodifiable aspects. Enforce only nonmodifiable aspects of that order;

3. Relief for violations before modification. Provide other appropriate relief only for violations of that order that occurred before the effective date of the modification; and

4. Recognize modifying order. Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

SUBCHAPTER VII**DETERMINATION OF PARENTAGE****§3301. Proceeding to determine parentage**

1. Initiating or responding tribunal. A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

2. Law applied. In a proceeding to determine parentage, a responding tribunal of this State shall apply the procedural and substantive laws of this

State, including provisions for blood or tissue-typing tests, and the rules of this State on choice of law.

SUBCHAPTER VIII

INTERSTATE RENDITION

§3351. Grounds for rendition

1. Governor. For purposes of this chapter, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

2. Powers of Governor. The Governor may:

A. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee; or

B. Upon demand by the governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

3. Application of provision for extradition. A provision for extradition of individuals not inconsistent with this chapter applies to the demand described in subsection 2 even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from that state.

§3352. Conditions of rendition

1. Proceedings for support as prerequisite. Before making demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor may require a prosecutor of this State to demonstrate that, at least 60 days previously, the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

2. Criminal charge in another state. If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the Governor surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the

demand for a reasonable time to permit the initiation of a proceeding.

3. Declination to honor demand. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

SUBCHAPTER IX

MISCELLANEOUS PROVISIONS

§3401. Uniformity of application and construction

This chapter must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

CHAPTER 69

UNIFORM CIVIL LIABILITY FOR SUPPORT ACT

§3501. Definitions

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

1. Child. "Child" means a son or daughter under 21 years of age or a son or daughter who is incapable of earning a living and without sufficient means.

2. Parent. "Parent" includes either a biological parent or an adoptive parent.

§3502. Jurisdiction

The Superior Court and the District Court have jurisdiction over all proceedings brought under this chapter.

§3503. Modification of order

The court retains jurisdiction to modify or vacate the order of support when justice requires.

§3504. Evidence of husband and wife

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable under this chapter. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage.

§3505. Rights additional to those now existing

The rights created by this chapter are in addition to and not in substitution for any other rights.

§3506. Uniformity of interpretation

This chapter must be interpreted and construed as to effectuate its general purpose to make uniform the laws of those states that enact it.

PART 4**PROTECTION FROM ABUSE****CHAPTER 101****PROTECTION FROM ABUSE****§4001. Purposes**

The court shall liberally construe and apply this chapter to promote the following underlying purposes:

1. Recognition. To recognize domestic abuse as 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;

2. Protection. To allow family and household members who are victims of domestic abuse to obtain expeditious and effective protection against further abuse so that the lives of the nonabusing family or household members are as secure and uninterrupted as possible;

3. Enforcement. To provide protection by promptly entering and diligently enforcing court orders that prohibit abuse and, when necessary, by reducing the abuser's access to the victim and addressing related issues of child custody and economic support so that victims are not trapped in abusive situations by fear of retaliation, loss of a child or financial dependence;

4. Prevention. To expand the power of the justice system to respond effectively to situations of domestic abuse, to clarify the responsibilities and support the efforts of law enforcement officers, prosecutors and judicial officers to provide immediate, effective assistance and protection for victims of abuse and to recognize the crucial role of law enforcement officers in preventing further incidents of abuse and in assisting the victims of abuse;

5. Data collection. To provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse; and

6. Mutual order. To declare that a mutual order of protection or restraint undermines the purposes of this chapter.

§4002. Definitions

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

1. Abuse. "Abuse" means the occurrence of the following acts between family or household members or by a family or household member upon a minor child of a family or household member:

A. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, chapter 11, except that contact as described in Title 17-A, section 106, subsection 1 is excluded from this definition;

B. Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior;

C. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

(1) Removing that person from that person's residence, place of business or school;

(2) Moving that person a substantial distance from the vicinity where that person was found; or

(3) Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved;

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment.

2. Adult. "Adult" means a person 18 years of age or older or a person under 18 years of age who is emancipated pursuant to Title 15, section 3506-A.

3. Court. "Court" means a District Court and, with regard to section 4011, the tribal court of the Passamaquoddy Tribe or the Penobscot Nation.

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, adult household members related by consanguinity or affinity or minor children of a 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 and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses."

5. Law enforcement agency. "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.

6. Mutual order of protection or restraint. "Mutual order of protection or restraint" means an order that is granted to the defendant in an action under this chapter or the inclusion of language in an order granted to the plaintiff in an action under this chapter that restricts or limits the plaintiff's conduct with regard to the defendant absent the filing of a separate complaint by the defendant, service of the complaint and summons upon the plaintiff and a finding by the court that the plaintiff committed the abuse alleged in the complaint.

§4003. Filing of complaint; jurisdiction

Proceedings under this chapter must be filed, heard and determined in the District Court of the division in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid abuse, the plaintiff may bring an action in the division of the plaintiff's previous residence or new residence.

The District Court has jurisdiction over protection from abuse petitions. If a District Court Judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to another District Court Judge or to any Superior Court Justice. A Superior Court Justice has the same authority as a District Court Judge to grant or deny the temporary order.

§4004. Application of other acts

The provisions and limitations of the Uniform Child Custody Jurisdiction Act do not apply to a proceeding under this chapter unless it is joined with another proceeding under section 4010, subsection 2.

§4005. Commencement of proceeding

1. Filing. An adult who has been abused by a family or household member may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member has been abused by a family or household member, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

2. Assistance. The following assistance is available.

A. The court shall provide separate forms and clerical assistance to either party in completing and filing a complaint or other necessary documents. The assistance may not include legal advice or assistance in drafting legal documents.

B. If a judge is unavailable to review a request for temporary relief under this chapter, the clerk shall immediately notify the plaintiff of other courts at which a judge or justice is available.

C. The clerk shall provide the plaintiff written notice of resources from which the plaintiff may receive legal or social service assistance.

3. Forms. The forms provided by the court must be uniform throughout the State and must include a summons and an affidavit for temporary emergency relief from abuse. The summons must include a section in which to list places where the defendant may be located or available to be served. The clerk shall inquire where the defendant may be located or available to be served and list those locations on the summons or direct the plaintiff to do so.

4. Fees. A fee may not be charged for forms or for filing a complaint. A plaintiff may apply for leave to proceed in forma pauperis.

§4006. Hearings

1. Full hearing. Within 21 days of the filing of a complaint, a hearing must be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. If a request for temporary, emergency or interim relief is denied, the hearing must be held as soon as practicable within the 21-day period.

2. Temporary orders. The court may enter temporary orders authorized under subsection 5 that it considers necessary to protect the plaintiff or minor child from abuse, on good cause shown in an ex parte proceeding, which the court shall hear and determine as expeditiously as practicable after the filing of a complaint. Immediate and present danger of abuse to the plaintiff or minor child constitutes good cause. An order remains in effect pending a hearing pursuant to subsection 1.

3. Emergency relief. Emergency relief is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for the shelter of an abused family or household member or minor child, a complaint may be presented to another District Court Judge or Superior Court Justice. Upon a showing of good cause, as defined in subsection 2, the court may enter temporary orders authorized under subsection 5 that it considers necessary to protect the plaintiff or minor child from abuse.

B. If a complaint is presented under this subsection, that complaint and any order issued pursuant to it must be forwarded immediately to the clerk of the District Court having venue for filing.

C. An order remains in effect pending a hearing pursuant to subsection 1.

4. Denial of relief. Before a request for temporary, emergency or interim relief is denied, the judge shall:

A. Allow the plaintiff the opportunity to be heard in person to support the complaint. The plaintiff may be accompanied by a person of the plaintiff's choice; and

B. Advise the plaintiff of reasons for the denial.

5. Interim relief. The court, in an ex parte proceeding, may make an order concerning the care and custody of minor children residing in the household and may enjoin the defendant from engaging in the following:

A. Imposing a restraint upon the person or liberty of the plaintiff;

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;

C. Entering the family residence or the residence of the plaintiff;

D. Repeatedly and without reasonable cause;

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

E. Taking, converting or damaging property in which the plaintiff may have a legal interest; or

F. Having any direct or indirect contact with the plaintiff.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

6. Service of order. If the court issues a temporary order or orders emergency or interim relief, it shall order an appropriate law enforcement agency to serve the defendant personally with the order, the complaint and the summons. To protect the plaintiff, the court may order the omission or deletion of the plaintiff's address from papers served on the defendant. The court shall cause the order to be delivered to the law enforcement agency as soon as practicable following the issuance of the order and the law enforcement agency shall make a good faith effort to serve process expeditiously.

7. Dissolution or modification. Notwithstanding any statutory provision to the contrary, upon 2 days' notice to the plaintiff or upon such shorter notice as the court may order, a person who is subject to an order may appear and move the dissolution or modification of the order and, in that event, the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require. At that hearing, the plaintiff has the burden of justifying a finding in the ex parte order that the defendant has challenged by affidavit. This section may not be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

8. Extension. If a hearing under subsection 1 is continued, the court may make or extend temporary orders it considers necessary. Notwithstanding any other provision of this section, if a protective order is issued pursuant to section 4007, the temporary protective order issued pursuant to this section remains in effect pending service of the final order.

§4007. Relief

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse, may grant

a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. Relief granted under this section may include:

A. Directing the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household;

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

C. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff;

E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee;

(1) Granting or restoring possession of the residence or household to one party, excluding the other; or

(2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing;

F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court;

G. Either awarding temporary custody of minor children or establishing temporary visitation rights with regard to minor children when the visitation is determined to be in the best interest of the child, or both;

H. 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 section 4014;

I. Ordering the payment of temporary support for the dependent party or for a child in the dependent party's custody in accordance with chapter 63, or both, when there is a legal obligation to support that dependent party or that child, or both;

J. Ordering the payment of temporary support payments to the State as provided in chapters 63 and 67;

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, 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;

L. Ordering the defendant or, if the complaint is dismissed, the plaintiff to pay court costs or reasonable attorney's fees; or

M. Entering any other orders determined necessary or appropriate in the discretion of the court.

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

2. Duration. A protective order or approved consent agreement is for a fixed period not to exceed 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 determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 4006, 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.

3. Consequences of violation. A protective order or approved consent agreement must indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as provided in section 4011.

4. Title to property. An order or agreement may not affect title to any real property.

5. Bond prohibited. The court may not require the execution of a bond by the plaintiff prior to issuance of an order of protection.

6. Service of order. The court shall order a law enforcement agency to serve the defendant personally with a protective order or consent decree.

7. Mutual order of protection or restraint. The court may not issue a mutual order of protection or restraint.

8. Action by plaintiff. A plaintiff may extinguish or modify an order only by legal process in accordance with the Maine Rules of Civil Procedure. Any other action or inaction on the part of the plaintiff does not alter, diminish or negate the effectiveness of the order. Criminal sanctions may not be imposed upon the plaintiff for violation of a provision of the plaintiff's order for protection.

9. Financial accounting. In all proceedings under this chapter, the court shall apply the child support guidelines in chapter 63 using the information the plaintiff is able to provide the court. Failure of a party to file an income affidavit may not unnecessarily delay a proceeding and does not preclude the issuance of an order, except that the court shall require the plaintiff to complete and file an income affidavit at a final hearing involving child support even if the defendant does not appear for the hearing.

§4008. Confidentiality of plaintiff's address

To protect the plaintiff or minor child, the court may order the omission or deletion of the plaintiff's or minor child's address from papers available to the public.

§4009. Notification

The clerk shall issue, without fee, a copy of an order, agreement, amendment or revocation to the plaintiff, the defendant and to the law enforcement agencies most likely to enforce it as determined by the court.

§4010. Procedure

1. Civil rules apply. Unless otherwise indicated in this chapter, all proceedings must be in accordance with the Maine Rules of Civil Procedure. Appeals may be taken as provided by the Maine Rules of Civil Procedure. Appeals may be only for error of law or abuse of discretion.

2. Proceedings independent. All proceedings may be independent of, or joined with, a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance. A proceeding under this chapter is in addition to any other available civil or criminal remedies.

3. Self-defense. The right to relief under this chapter is not affected by the plaintiff's use of

reasonable force in response to abuse by the defendant.

4. Intoxication. Voluntary intoxication is not a defense to an action under this chapter.

5. Mediation. The court may not mandate mediation in actions brought under this chapter.

§4011. Violation

1. Crime committed. Except as provided in subsection 2, violation of the following is a Class D crime:

A. A temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a similar order issued by a court of the United States or of another state, territory, commonwealth or tribe; or

B. 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.

2. Exception. When the only provision that is violated concerns relief authorized under section 4007, subsection 1, paragraphs H to M, the violation must be treated as contempt and punished in accordance with law.

3. Warrantless arrest. Notwithstanding any statutory provision to the contrary, an arrest for criminal violation of an order or consent agreement 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.

§4012. Law enforcement agency responsibilities

1. Reports. A law enforcement agency shall report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under Title 25, section 1544.

2. Agency procedures. Law enforcement agencies shall establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of an order of protection are informed of a recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of a recorded order of protection.

3. Officer training. Law enforcement agencies shall provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household

abuse, procedures to deal with these problems, the provisions of this chapter and the services and facilities available to abused family and household members. The amount and degree of officer training, beyond the distribution of information, must be determined by each local law enforcement agency.

4. Maine Criminal Code enforcement. A law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers.

5. Arrest in certain situations. When a law enforcement officer has probable cause to believe that there has been a criminal violation under section 4011 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, section 208 has occurred between members of the same family or household, that enforcement officer shall arrest and take into custody the alleged offender.

6. Officer responsibilities. When a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

A. Remaining on the scene as long as the officer reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;

B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;

C. Giving that person immediate and adequate written notice of that person's rights, which include information summarizing the procedures and relief available to victims of the family or household abuse; or

D. Arresting the abusing party with or without a warrant pursuant to section 4011 and Title 17-A, section 15.

7. Law enforcement agency policy. Every municipal, county and state law enforcement agency with the duty to investigate, prosecute and arrest offenders of this chapter and Title 17-A shall adopt a written policy on the enforcement of this chapter and the handling of domestic abuse cases in general.

8. District attorney prosecutorial policy. The Attorney General, in consultation with the prosecutors' association, shall develop a written policy regarding

prosecution of domestic abuse cases under the provisions of Title 17-A. The district attorney for each of the several counties within the State shall adopt a written policy regarding prosecution of domestic abuse cases.

§4013. Maine Commission on Domestic Abuse

There is created the Maine Commission on Domestic Abuse, as established by Title 5, section 12004-I, subsection 74-C, referred to in this section as the "commission."

1. Composition; chair. The commission is composed as follows.

A. The Governor shall name the chair from among the following members:

(1) Two members, appointed by the Governor, who are representatives of the state-wide coalition of family crisis services;

(2) Two members, appointed by the Governor, one of whom has experience counseling abusers, who are representatives of the family counseling profession;

(3) One member, appointed by the Governor, who is a representative of victims of domestic violence;

(4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

(5) One person, appointed by the Governor, who was a victim of domestic abuse and used the court system;

(6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;

(7) One member, appointed by the Governor, who is chief of a municipal police department;

(8) One member, appointed by the Governor, who is a county sheriff; and

(9) The Commissioner of Public Safety or the commissioner's designee.

B. The Chief Justice of the Supreme Judicial Court is requested to appoint one person to serve the commission in an advisory capacity.

2. Terms of office. The members serve 3-year terms.

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 a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection.

§4014. 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. B-3. Transition clause; rules. All rules adopted by any state agency, department or board under the authority of the Maine Revised Statutes, Title 19 continue in force until they are repealed, rescinded, amended or revoked.

Sec. B-4. Rule-making authority. All rule-making authority enacted in this Act is a continuation of rule-making authority contained in the Maine Revised Statutes, Title 19, and is not new rule-making authority for the purposes of Title 5, chapter 375, subchapter II-A. Rules adopted pursuant to rule-making authority enacted in this Act do not require legislative review under Title 5, chapter 375, subchapter II-A.

PART C

Sec. C-1. 14 MRSA c. 13 is enacted to read:

CHAPTER 13

PARENTS, CHILDREN, SPOUSES

§301. Action for alienation of affections prohibited

A person is not liable to any other person in a civil action for the cause of alienation of affections.

§302. Action for loss of consortium

A married person may bring a civil action in that person's own name for loss of consortium of that person's spouse.

§303. Action for loss of services

The parents of a minor child jointly may maintain an action for loss of the services or earnings of that child when that loss is caused by the negligent or wrongful act of another. If one parent refuses to sue, the other may sue alone. This section does not limit, amend, supersede or affect former Title 39, the Workers' Compensation Act or Title 39-A, Part 1, the Maine Workers' Compensation Act of 1992.

§304. Liability of parents or legal guardians for damage by children

If a minor who is between 7 and 17 years of age willfully or maliciously causes damage to property or injury to a person and the minor would have been liable for the damage or injury if the minor were an adult and the minor lives with that minor's parents or legal guardians, the parents or legal guardians are jointly and severally liable with the minor for that damage or injury in an amount not exceeding \$800. This section does not relieve the minor from personal liability for that damage or injury.

Sec. C-2. 17-A MRSA §553, sub-§2, as enacted by PL 1975, c. 499, §1, is amended to read:

2. Abandonment of a child is a Class D crime, except that abandonment of a child is a Class C crime if the child is under the age of 6.

Sec. C-3. 17-A MRSA §554, sub-§1, ¶B, as amended by PL 1995, c. 263. §1, is further 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 or ammunition for firearms; ~~or~~

Sec. C-4. 17-A MRSA §554, sub-§1, ¶B-1 is enacted to read:

B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment; or

Sec. C-5. 18-A MRSA Art. 1, Pt. 7 is enacted to read:

PART 7

CHANGE OF NAME

§1-701. Petition to change name

If a person desires to have that person's name changed, the person may petition the judge of probate in the county where the person resides; or, if the person is a minor, that person's legal custodian may petition in the person's behalf, and the judge, after due notice, may change the name of the person and shall make and preserve a record of the name change. The fee for filing the petition is \$10.

Sec. C-6. 18-A MRSA §2-109, sub-§(3) is enacted to read:

(3) A divorce or judicial separation does not bar the issue of the marriage from inheriting.

Sec. C-7. 18-A MRSA Art. IX is enacted to read:

Article IX

Adoption

PART 1

GENERAL PROVISIONS

§9-101. Short title

This article may be known and cited as "The Adoption Act."

§9-102. Definitions

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

(a) "Adoptee" means a person who will be or who has been adopted, regardless of whether the person is a child or an adult.

(b) "Adoption services" means services related to adoptions, including but not limited to adoptive home studies, search services and adoption counseling services.

(c) "Adult" means a person who is 18 years of age or older.

(d) "Child" means a person who is under 18 years of age.

(e) "Consent," used as a noun, means a voluntary agreement to an adoption by a specific petitioner that is executed by a parent or custodian of the adoptee.

(f) "Department" means the Department of Human Services.

(g) "Licensed child-placing agency" means an agency, person, group of persons, organization, association or society licensed to operate in this State pursuant to Title 22, chapter 1671.

(h) "Parent" means the legal parent or the legal guardian when no legal parent exists.

(i) "Petitioner" means a person filing a petition to adopt an adult or child, and includes both petitioners under a joint petition, except as otherwise provided.

(j) "Putative father" means a man who is the alleged biological father of a child but whose paternity has not been legally established.

(k) "Surrender and release," used as a noun, means a voluntary relinquishment of all parental rights to a child to the department or a licensed child-placing agency for the purpose of placement for adoption.

§9-103. Jurisdiction

(a) The Probate Court has exclusive jurisdiction over the following:

(1) Petitions for adoption;

(2) Consents and reviews of withholdings of consent by persons other than a parent;

(3) Surrenders and releases;

(4) Termination of parental rights proceedings brought pursuant to section 9-204;

(5) Proceedings to determine the rights of putative fathers of children whose adoptions or surrenders and releases are pending before the Probate Court; and

(6) Reviews conducted pursuant to section 9-205.

(b) The District Court has jurisdiction to conduct hearings pursuant to section 9-205.

§9-104. Venue; transfer

(a) If the adoptee is placed by a licensed child-placing agency or the department, the petition for adoption must be filed in the court in the county where:

(1) The petitioner resides;

(2) The adoptee resides or was born; or

(3) An office of the agency that placed the adoptee for adoption is located.

(b) 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.

(c) If, in the interests of justice or for the convenience of the parties, the court finds that the matter should be heard in another probate court, the court may transfer, stay or dismiss the proceeding, subject to any further conditions imposed by the court.

§9-105. Rights of adopted persons

Except as otherwise provided by law, an adopted person has all the same rights, including inheritance rights, that a child born to the adoptive parents would have. An adoptee also retains the right to inherit from the adoptee's biological parents if the adoption decree so provides, as specified in section 2-109, subsection (1).

§9-106. Legal representation

(a) The biological parents are entitled to an attorney for any hearing held pursuant to this article. If the biological mother or the biological or putative father wants an attorney but is unable to afford one, the biological mother or the biological or putative father may request the court to appoint an attorney. If the court finds either or both of them indigent, the court shall appoint and pay the reasonable costs and expenses of the attorney of the indigent party. The

attorney may not be the attorney for the adoptive parents.

(b) When the adoptee is unrelated to the petitioner, the court shall appoint an attorney who is not the attorney for the adoptive parents to represent a minor indigent biological parent at every stage of the proceedings unless the minor biological parent refuses representation or the court determines that representation is unnecessary.

§9-107. Indian Child Welfare Act

The Indian Child Welfare Act, United States Code, Title 25, Section 1901 et seq. governs all proceedings under this article that pertain to an Indian child as defined in that Act.

§9-108. 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:

(a) The filing of a consent;

(b) The filing of a surrender and release;

(c) The filing of a waiver of notice by a father or putative father under former Title 19, section 532-C;

(d) The issuance of an order terminating parental rights; or

(e) The filing of an adoption petition.

PART 2

ESTABLISHMENT OF PATERNAL RIGHTS AND TERMINATION OF PATERNAL RIGHTS

§9-201. Establishment of paternity

(a) When the biological mother of a child born out of wedlock wishes to consent to the adoption of the child or to execute a surrender and release for the purpose of adoption of the child and the putative father has not consented to the adoption of the child or joined in a surrender and release for the purpose of adoption of the child or waived his right to notice, the biological mother must file an affidavit of paternity with the judge of probate so that the judge may determine how to give notice of the proceedings to the putative father of the child.

(b) If the judge finds from the affidavit of the biological 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 Probate Procedure. If the biological mother does not know or refuses to tell the court who the biological father is, the court may order publication in accordance with the Maine Rules of Probate Procedure in a newspaper of general circulation in the area where the petition is filed, where the biological mother became pregnant or where the putative father is most likely to be located. The notice must specify the names of the biological mother and the child.

(c) 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 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.

(1) The waiver of notice must indicate that the putative father or legal father understands that the waiver of notice operates as a consent to adoption or a surrender and release for the purposes of adoption for any adoption of the child, and that by signing the waiver of notice the putative father or legal father voluntarily gives up any rights to the named child.

(2) The waiver of notice may state that the putative father or legal father neither admits nor denies paternity.

(3) The legal father shall attach to the waiver of notice an affidavit stating that, although he is the legal father, he is not the biological father.

(d) If, after notice, the putative father of the child wishes to establish parental rights to the child, he must, within 20 days after notice has been given or within a longer period of time as ordered by the judge, petition the judge of probate to grant to him parental rights. The petition must include an allegation that the putative father is in fact the biological father of the child.

(e) Upon receipt of a petition under subsection (d), the judge shall fix a date for a hearing to determine the putative father's parental rights to the child.

(f) The court shall appoint an attorney who is not the attorney for the putative father, the biological mother or the potential transferee agency or a potential adoptive parent to represent the child and to protect the child's interests.

(g) Notice of the hearing must be given to the putative father, the biological 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 (c).

(h) Upon order of the court, the department or licensed child-placing agency shall furnish studies and reports relevant to the proceedings.

(i) If, after a hearing, the judge finds that the putative father is the biological father, that he is willing and able to protect the child from jeopardy and has not abandoned the child, that he is willing and able to take responsibility for the child and that it is in the best interests of the child, then the judge shall declare the putative father the child's parent with all the attendant rights and responsibilities.

(j) If the judge of probate finds that the putative father of the child has not petitioned or appeared within the period required by this section or has not met the requirements of subsection (i), the judge shall rule that the putative father has no parental rights and that only the biological mother of the child need consent to adoption or a surrender and release.

§9-202. Surrender and release; consent

(a) 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 interest of the child, the parents or surviving parent of a child may at any time after the child's birth:

(1) 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 a suitable person; or

(2) Consent to have the child adopted by a specified petitioner.

The parents or the surviving parent must execute the surrender and release or the consent in the presence of the judge. The waiver of notice by the legal father who is not the biological father or putative father is governed by section 9-201, subsection (c).

(b) The court may approve a consent or a surrender and release only if the following conditions are met.

(1) 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:

(i) One of the petitioners is a blood relative; or

(ii) The adoptee is an adult.

(2) The court has explained the individual's parental rights and responsibilities, the effects of the consent or the surrender and release, that in all but specific situations 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. The individual does not have the right to revoke the consent when the individual is a consenting party and also a petitioner.

(3) 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.

(4) Except when a consenting party is also a petitioner, at least 3 days have elapsed since the parents or parent executed the surrender and release or the 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.

(c) The consent or the 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 surrender and release must be filed in the Probate Court in which the petition is filed. The court in which the consent or the surrender and release is executed shall provide an attested copy to each consenting or surrendering party and 2 attested copies to the transferee agency, the adoptive parents' attorney or the 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.

(d) A consent or a surrender and release is not valid until 3 days after it has been executed, except that consent by a parent petitioning to adopt that parent's own child with that parent's spouse is valid upon signature.

(e) Consent may be acknowledged before a notary public who is not an attorney for the adopting parents or a partner, associate or employee of an attorney for the adopting parents when consent is given by:

(1) The department or a licensed child-placing agency; or

(2) A public agency or a duly licensed private agency to which parental rights have been transferred under the law of another state or country.

(f) Except as provided in subsection (g) and section 9-205, subsection (b), a consent or a surrender and release is final and irrevocable when duly executed.

(g) A consent is final only for the adoption consented to, and, if that adoption petition is withdrawn or dismissed or if the adoption is not finalized within 18 months of the execution of the consent, a review must be held pursuant to section 9-205.

(h) The court shall accept a consent or a surrender and release by a court of comparable jurisdiction in another state if the court receives an affidavit from a member of that state's bar or a certificate from that court of comparable jurisdiction stating that:

(1) The party executing the consent or the surrender and release followed the procedure required to make a consent or a surrender and release valid in the state in which it was executed; and

(2) The court of comparable jurisdiction advised the person executing the consent or the surrender and release of the consequences of the consent or the surrender and release under the laws of the state in which the consent or the surrender and release was executed.

The court shall accept a waiver of notice by a putative father or a legal father who is not the biological father that meets the requirements of section 9-201, subsection (c).

§9-203. Duties and responsibilities subsequent to surrender and release

Without notice to the parent or parents, the surrender and release authorized pursuant to section 9-202 may be transferred together with all rights under section 9-202 from the transferee agency to the department or from the department as original transferee to any licensed child-placing agency. If the licensed child-placing agency or the department is unable to find a suitable adoptive home for a child surrendered and released by a parent or parents, then the licensed child-placing agency or the department to whom custody and control of that child have been surrendered and released or transferred shall request a review pursuant to section 9-205.

§9-204. Termination of parental rights

(a) A petition for termination of parental rights may be brought in Probate Court in which an adoption petition is properly filed as part of that adoption petition except when a child protection proceeding is pending or is subject to review by the District Court.

(b) Except as otherwise provided by this section, a petition for termination of parental rights petition is subject to the provisions of Title 22, chapter 1071, subchapter VI.

(c) The court may appoint a guardian ad litem for the child. The appointment must be made as soon as possible after the petition for termination of parental rights is initiated.

(1) The court shall pay reasonable costs and expenses for the guardian ad litem.

(2) The guardian ad litem must be given access to all reports and records relevant to the case. In general, the guardian ad litem shall represent the child. The guardian ad litem may conduct an investigation to ascertain the facts that includes:

(i) Reviewing records of psychiatric, psychological or physical examinations of the child, parents or other persons having or seeking care or custody of the child;

(ii) Interviewing the child with or without other persons present;

(iii) Interviewing, subpoenaing, examining and cross-examining witnesses; and

(iv) Making recommendations to the court.

§9-205. Review

(a) The court shall conduct a judicial review if:

(1) A child is not adopted within 18 months of execution of a surrender and release;

(2) The adoption is not finalized within 18 months of the consent to an adoption by a parent or parents; or

(3) An adoption petition is not finalized within 18 months.

(b) 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 biological 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 biological 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 biological 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.

PART 3

ADOPTION PROCEDURES

§9-301. Petition for adoption and change of name; filing fee

A husband and wife jointly or an unmarried person, resident or nonresident of the State, may petition the Probate Court to adopt a person, regardless of age, and to change that person's name. The fee for filing the petition is \$10.

§9-302. Consent for adoption

(a) Before an adoption is granted, written consent to the adoption must be given by:

(1) The adoptee, if the adoptee is 14 years of age or older;

(2) Each of the adoptee's living parents, except as provided in subsection (b);

(3) The person or agency having legal custody or guardianship of the child or to whom the child has been surrendered and released, except that the person's or agency's lack of consent, if adjudged unreasonable by a judge of probate, may be overruled by the judge. In order for the judge to find that the person or agency acted unreasonably in withholding consent, the petitioner must prove, by a preponderance of the evidence, that the person or agency acted unreasonably. The court may hold a pretrial conference to determine who will proceed. The court may determine that even though the burden of proof is on the petitioner, the person or agency should proceed if the person or agency has important facts necessary to the petitioner in presenting the petitioner's case. The judge shall consider the following:

(i) Whether the person or agency determined the needs and interests of the child;

(ii) Whether the person or agency determined the ability of the petitioner and other prospective families to meet the child's needs;

(iii) Whether the person or agency made the decision consistent with the facts;

(iv) Whether the harm of removing the child from the child's current placement outweighs any inadequacies of that placement; and

(v) All other factors that have a bearing on a determination of the reasonableness of the person's or agency's decision in withholding consent; and

(4) A guardian appointed by the court, if the adoptee is a child, when the child has no living parent, guardian or legal custodian who may consent.

(b) Consent to adoption is not required of:

(1) A putative father or a legal father who is not the biological father if he:

(i) Received notice and failed to respond to the notice within the prescribed time period;

(ii) Waived his right to notice under section 9-201, subsection (c); or

(iii) Failed to meet the standards of section 9-201, subsection (i);

(2) A parent whose parental rights have been terminated under Title 22, chapter 1071, subchapter VI;

(3) A parent who has executed a surrender and release pursuant to section 9-202;

(4) A parent whose parental rights have been voluntarily or judicially terminated and transferred to a public agency or a duly licensed private agency pursuant to the laws of another state or country; or

(5) The parent of an adoptee who is 18 years of age or older.

§9-303. Petition

(a) A petition for adoption must be sworn to by the petitioner and must include:

(1) The full name, age and place of residence of the petitioner and, if married, the place and date of marriage;

(2) The date and place of birth of the adoptee, if known;

(3) The birth name of the adoptee, any other names by which the adoptee has been known and the adoptee's proposed new name, if any;

(4) The residence of the adoptee at the time of the filing of the petition;

(5) The petitioner's intention to establish a parent and child relationship between the petitioner and the adoptee and a statement that

the petitioner is a fit and proper person able to care and provide for the adoptee's welfare;

(6) The names and addresses of all persons or agencies known to the petitioner that affect the custody, visitation or access to the adoptee;

(7) The relationship, if any, of the petitioner to the adoptee;

(8) The names and addresses of the department and the licensed child-placing agency, if any; and

(9) The names and addresses of all persons known to the petitioner at the time of filing from whom consent to the adoption is required.

(b) A petitioner shall indicate to the court what information the petitioner is willing to share with the biological parents and under what circumstances and shall provide a mechanism for updating that information.

(c) The caption of a petition for adoption may be styled "In the Matter of the Adoption Petition of (name of adoptee)." The petitioner must also be designated in the caption.

§9-304. Investigation; guardian ad litem; registry

(a) Upon the filing of a petition for adoption of a minor child, when a petitioner is not a blood relative of the child, the court shall notify the department or a licensed child-placing agency, which shall 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 a petitioner is a blood relative of the child.

(b) This subsection governs the collection and disclosure of information about the child's background.

(1) 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 biological parents and the child. Specifically, the department, the licensed child-placing agency or other person who acts to place or assist in placing the child for adoption shall attempt to obtain:

(i) A current medical, psychological and developmental history of the child, including an account of the child's prenatal care and medical condition at birth, results of newborn screening, any drug or medication

taken by the child's biological 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

(ii) Relevant information concerning the medical, psychological and social history of the biological parents, including any known disease or hereditary disposition to disease, the history of use of drugs and alcohol, the health of the biological mother during her pregnancy and the health of the biological parents at the time of the child's birth.

(2) Prior to the child being placed for 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 (1) to the prospective adoptive parents.

(3) 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.

(4) 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 biological parents are unable or unwilling to consent to its disclosure or to be interviewed.

(5) 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 biological parents or the child may be useful in diagnosis or treatment, 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 the additional information. Fees col-

lected 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) 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 (f), with protection for the identity of persons other than the child.

(7) 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.

(c) The court may require that the child live for one year in the home of the petitioner before the petition is granted and that the child, during all or part of this probationary period, be under the supervision of the department or a licensed adoption agency.

(d) The court may appoint a guardian ad litem for the child at any time during the proceedings.

(e) Before the adoption is decreed, the court shall ensure that the petitioners are informed of the existence of the adoption registry and the services available under Title 22, section 2706-A.

(f) If the judge is satisfied with the identity and relations of the parties, of the ability of the petitioner to bring up and educate the child properly, considering the condition of the child's biological parents, and of the fitness and propriety of the adoption, the judge shall make a decree setting forth the facts and declaring that from that date the child is the child of the petitioner and that the child's name is changed, without requiring public notice of that change.

(g) A certified copy of the birth record of the child proposed for adoption must be presented with the petition for adoption if the certified copy can be obtained or made available by filing a delayed birth registration. After the adoption has been decreed, the register of probate shall file a certificate of adoption with the State Registrar of Vital Statistics on a form prescribed and furnished by the state registrar.

§9-305. Evidence; procedure

(a) The judge may interview any adoptee, and shall interview an adoptee who is 12 years of age or older, outside the presence of the prospective adoptive parents to determine the adoptee's attitudes and desires about the adoption and other relevant issues.

(b) The judge may conduct an inspection in camera of records of relevant child protective proceedings and may disclose only that information necessary for the determination of any issue before the court. Any disclosure of information must be done pursuant to Title 22, section 4008, subsection 3.

(c) The parties may request a recording of the proceedings. The requesting party shall pay the expense of the recording.

§9-306. Allowable payments; expenses

(a) Except when one of the petitioners is a blood relative of the adoptee 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 article:

- (1) The actual cost of legal services related to the consent or the surrender and release and to the adoption process;
- (2) Prenatal and postnatal counseling expenses for the biological mother;
- (3) Prenatal, birthing and other related medical expenses for the biological mother;
- (4) Necessary transportation expenses to obtain the services listed in paragraphs (1), (2) and (3);
- (5) Foster care expenses for the child;
- (6) Necessary living expenses for the biological mother and the child;
- (7) For the biological father, legal and counseling expenses related to the consent, the surrender and release and the adoption process; and
- (8) Fees to a licensed child-placing agency providing services in connection with the pending adoption.

(b) Prior to the dispositional hearing pursuant to section 9-308, 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 date 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 biological 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 child-placing agency or other person or organization who received 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.

(c) Payment for expenses allowable under subsection (a), if provided, may not be contingent upon any future decision a biological parent might make pertaining to the child. Other expenses or payments to biological parents are not authorized.

§9-307. Adoption not granted

If the court determines that it is unable to finalize an adoption to which biological parents have consented, the court shall notify the biological parents that the court has not granted the adoption and shall conduct a review pursuant to section 9-205.

§9-308. Final decree; dispositional hearing

(a) The court shall grant a final decree of adoption if:

- (1) All necessary consents, relinquishments or terminations of parental rights have been duly executed and filed with the court;
- (2) An adoption study, when required by section 9-304, has been filed with the court;
- (3) A list of all disbursements as required by section 9-306 has been filed with the court;
- (4) The petitioner is a suitable adopting parent and desires to establish a parent and child relationship with the adoptee;
- (5) The best interests of the adoptee are served by the adoption; and
- (6) All other requirements of this article have been met.

(b) In determining the best interests of the adoptee, the court shall consider and evaluate the following factors to give the adoptee a permanent home at the earliest possible date:

- (1) The love, affection and other emotional ties existing between the adoptee and the adopting person or persons, the biological parent or biological parents or the putative father;

(2) The capacity and disposition of the adopting person or persons, the biological parent or biological parents or the putative father to educate and give the adoptee love, affection and guidance and 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

(3) The capacity and disposition of the adopting person or persons, the biological parent or biological parents or the putative father to provide the adoptee with food, clothing and other material needs, education, permanence and medical care or other remedial care recognized and permitted in place of medical care under the laws of this State.

(c) The court shall enter its findings in a written decree that includes the new name of the adoptee. 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 9-105. 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 petitioner be kept confidential.

(d) Upon completion of an adoption proceeding, the biological parents who consented to an adoption or who executed a surrender and release must be notified of the completion by regular mail at their last known address. Notice under this subsection is not required to a biological parent who is also a petitioner. When the biological 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 biological parents of the completion by regular mail at their last known address. Actual receipt of the notice is not a precondition of completion and does not affect the rights or responsibilities of adoptees or adoptive parents.

(e) 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 Title 19-A, chapter 59 or Title 22, section 4005-B.

§9-309. Appeals

(a) Any party may appeal from any order entered under this article to the Supreme Judicial Court sitting as the Law Court, as in other civil actions, but a bond to prosecute an appeal is not required of a child or next friend and costs may not be awarded against either.

(b) An appeal from any order under this article must be expedited.

(c) 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 party in any appeal unless otherwise ordered by the court.

§9-310. Records confidential

Notwithstanding any other provision of law, all Probate Court records relating to any adoption decreed on or after August 8, 1953 are confidential. The Probate Court shall keep records of those adoptions segregated from all other court records. If a judge of probate court 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 and to the adopted child's descendants, adoptive parents or legal guardian on petition of the court.

§9-311. Interstate placements

(a) A person or agency who intends to bring a child to this State from another state for the purpose of adoption must provide to the Probate Court the certification of compliance as required by the department pursuant to Title 22, chapter 1153.

(b) A person or agency who intends to remove a child from this State for the purpose of adoption in another state must obtain from the department certification of compliance with Title 22, chapter 1153 prior to the removal of the child from this State.

(c) The Probate Court may not grant a petition to adopt a child who has been brought to or will be removed from this State for the purpose of adoption without department certification of compliance with Title 22, chapter 1153.

(d) An agency or person who fails to comply with this section commits a civil violation for which a penalty of not less than \$100 and not more than \$5,000 may be adjudged.

§9-312. Foreign adoptions

If an adoption in a foreign country has been finalized and the adopting parents are seeking an adoption under the laws of this State to give recognition to the foreign adoption, a judge of probate may

enter a decree of adoption based solely upon a judgment of adoption in a foreign country and may order a change of name if requested by the adopting parents.

§9-313. Advertisement

Advertising for adoption services or soliciting adoptions is prohibited, except that licensed child-placing agencies may advertise in accordance with rules adopted by the department.

§9-314. Immunity from liability for good faith reporting; proceedings

A person, including an agent of the department, who participates in good faith in reporting violations of this chapter or participates in a related child protection investigation or proceeding is immune from any criminal or civil liability for reporting or participating in the investigation or proceeding. For purposes of this section, "good faith" does not include instances when a false report is made and the person knows the report is false.

§9-315. Annulment of the adoption decree

(a) A judge of probate may, on petition of 2 or more persons and after notice and hearing, reverse and annul a decree of the Probate Court for one of the following reasons.

- (1) The court finds that the adoption was obtained as a result of fraud, duress or illegal procedures.
- (2) The court finds other good cause shown consistent with the best interest of the child.

(b) Notice of a petition to annul must be given to the biological parents, except those whose parental rights were terminated through a proceeding pursuant to Title 22, section 4055, subsection 1, paragraph B, subparagraph (2), and to all parties to the adoption including the adoptive parents, an adoptee who is 14 years of age or older and the agency involved in the adoption.

(c) 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.

PART 4

ADOPTION ASSISTANCE PROGRAM

§9-401. Authorization; special needs children

(a) There is established in the Department of Human Services the Adoption Assistance Program, referred to in this Part as "the program."

(b) Subject to rules and regulations adopted by the department and the federal Department of Health and Human Services, the department may provide through the program adoption assistance for special needs children in its care or custody or in the custody of a nonprofit private licensed child-placing agency in this State if those children are legally eligible for adoption and, when reasonable but unsuccessful efforts have been made to place them without adoption assistance, would not otherwise be adopted without the assistance of this program.

(c) The department shall, subject to rules and regulations adopted by the department and the federal Department of Health and Human Services, reimburse adoptive parents of a special needs child for one-time adoption expenses when reasonable but unsuccessful efforts have been made to place the child without such assistance.

(d) A "special needs child" means a child who:

- (1) Has a physical, mental or emotional handicap that makes placement difficult;
- (2) Has a medical condition that makes placement difficult;
- (3) Is a member of a sibling group that includes at least one member who is difficult to place;
- (4) Is difficult to place because of age or race;
- (5) Has been a victim of physical, emotional or sexual abuse or neglect that places the child at risk for future emotional difficulties; or
- (6) Has in the family background factors such as severe mental illness, substance abuse, prostitution, genetic or medical conditions or illnesses that place the child at risk for future problems.

(e) For the purposes of this section, the department is authorized to use funds that are appropriated for child welfare services and funds provided under the United States Social Security Act, Titles IV-B and IV-E.

(f) The amount of adoption assistance may vary depending upon the resources of the adoptive parents and the special needs of the child, as well as the availability of other resources, but may not exceed the total cost of caring for the child if the child were to remain in the care or custody of the department, without regard to the source of the funds.

(g) The duration of assistance may continue until the cessation of legal parental responsibility or until the parents are no longer supporting the child, at which time the adoption assistance ceases. However, if the child has need of educational benefits or has a physical, mental or emotional handicap, adoption

assistance may continue until the adoptee has attained 21 years of age if the adoptee, the parents and the department agree that the need for care and support exists.

(h) Children who are in the custody of a person or agency in another state who are brought to this State for the purpose of adoption are not eligible for adoption assistance through the program except for reimbursement of nonrecurring expenses if the child meets the requirements of the United States Social Security Act, 42 United States Code, Section 673 (c).

§9-402. Adoption assistance

(a) Applications for the program may be submitted by the following persons:

(1) Foster parents interested in adopting an eligible child in their care;

(2) Other persons interested in adopting an eligible child; or

(3) 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.

(b) All applicants for the program must meet department standards for adoption except for financial eligibility.

(c) 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.

§9-403. Administration

(a) A written agreement between the family entering into the program and the department must precede the final decree of adoption, except that an application may be filed subsequent to the finalization of the adoption if there were facts relevant to the child's eligibility that were not presented at the time of the request for assistance or if the child was eligible for participation in the program at the time of placement and the adoptive parents were not apprised of the program.

(b) If assistance continues for more than one year, the need for assistance must be annually redetermined. Adoption assistance continues regardless of the state in which the adoptive parents reside, or the state to which the adoptive parents move, as long as the family continues to be eligible based on the annual redetermination of need.

(c) Upon the death of both adoptive parents, adoption assistance may be transferred to the legal

guardian as long as the child continues to be eligible for adoption assistance pursuant to the terms of the most recent adoption assistance agreement with the adoptive parents. The department shall enter into a new assistance agreement with the legal guardian.

§9-404. Rules

The department shall adopt rules for the program consistent with this Part.

Sec. C-8. 22 MRSA c. 260 is enacted to read:

CHAPTER 260

CONSENT OF MINORS FOR HEALTH SERVICES

§1501. Definitions

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

1. Health care practitioner. "Health care practitioner" has the same meaning as set forth in Title 24, section 2502, subsection 1-A.

2. Health care provider. "Health care provider" has the same meaning as set forth in Title 24, section 2502, subsection 2.

3. Minor. "Minor" means a person under 18 years of age.

§1502. Consent

In addition to the ability to consent to treatment for health services as provided in sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004, a minor may consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems.

§1503. Authority

A minor may give consent to all medical, mental, dental and other health counseling and services if the minor:

1. Living separately; independent of parental support. Has been living separately from parents or legal guardians for at least 60 days and is independent of parental support;

2. Married. Is or was legally married;

3. Armed Forces. Is or was a member of the Armed Forces of the United States; or

4. Emancipated. Has been emancipated by the court pursuant to Title 15, section 3506-A.

§1504. Good faith reliance on consent

A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health treatment as authorized in section 1503 and who subsequently renders treatment in reliance on that consent is not liable for failing to have secured consent of the minor's parent or guardian prior to providing health care services to the minor.

§1505. Confidentiality; notification

1. Confidentiality. Except as otherwise provided by law, a minor who may consent to health care services, as provided in this chapter or by other provision of law, is entitled to the same confidentiality afforded to adults.

2. Parental notification. A health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care under this chapter if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment.

§1506. Financial responsibility

Unless the parent or guardian expressly agrees to assume full or partial responsibility, a minor who consents to health care services as provided in this chapter is responsible for the costs of those services. A minor may not be denied benefits or services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in this chapter.

PART D

Sec. D-1. 4 MRSA §18, sub-§6, as amended by PL 1995, c. 123, §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 ~~49~~ 19-A, section ~~244~~ 851, 1653 or ~~584~~ 1654, or Title ~~49~~ 19-A, chapter 7, subchapter III or Title ~~19-A~~, chapter ~~43~~ 55, 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~~ file, under Title ~~49~~ 19-A, section ~~244~~ 851, 1653 or ~~584~~, 1654 or Title ~~49~~ 19-A, chapter 7, subchapter III or Title ~~19-A~~, chapter ~~43~~ 55, 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 ~~49~~ 19-A, section ~~244~~ 851, 1653 or ~~584~~, 1654 or Title

~~49~~ 19-A, chapter 7, subchapter III or Title ~~19-A~~, chapter ~~43~~ 55, 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~~ between 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. D-2. 4 MRSA §152, sub-§5, ¶A, as repealed and replaced by PL 1983, c. 796, §1, is amended to read:

A. Actions for divorce, annulment of marriage or judicial separation and ~~of~~ proceedings under Title ~~49~~ 19-A;

Sec. D-3. 4 MRSA §152, sub-§5, ¶M, as enacted by PL 1989, c. 392, §1, is amended to read:

M. Actions to hear and determine property matters between spouses as provided in Title ~~49~~ 19-A, section ~~466~~, 806 and to make all necessary orders and decrees relating to these matters, to issue all necessary process to enforce the orders and decrees and to cause all the orders and decrees to be enforced;

Sec. D-4. 4 MRSA §807, sub-§3, ¶I, as enacted by PL 1995, c. 419, §3, is amended 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 ~~49~~ 19-A, section ~~504-C~~ 2361, subsection 10. This paragraph is repealed October 1, 1998.

Sec. D-5. 5 MRSA §12004-I, sub-§52-A is enacted to read:

52-A.	<u>Family Law</u>	<u>None</u>	<u>19-A</u>
Judiciary:	<u>Advisory</u>	<u>Authorized</u>	<u>MRSA</u>
Family Law	<u>Commission</u>		<u>§351</u>

Sec. D-6. 5 MRSA §12004-I, sub-§74-C, as enacted by PL 1989, c. 862, §1, is amended to read:

74-C. Public Safety	Maine Commission on Domestic Abuse	Expenses Only	49 19-A MRSA §770-B- <u>§4013</u>
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Sec. D-7. 10 MRSA §8005, as enacted by PL 1993, c. 410, Pt. V, §1, is amended to read:

§8005. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201.

Sec. D-8. 10 MRSA §8006, sub-§2, as enacted by PL 1993, c. 410, Pt. V, §1, is amended to read:

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a court order of support is subject to the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201.

Sec. D-9. 12 MRSA §6308, as enacted by PL 1993, c. 410, Pt. V, §2, is amended to read:

§6308. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201, but only if the license is for commercial use.

Sec. D-10. 12 MRSA §6309, sub-§2, as enacted by PL 1993, c. 410, Pt. V, §2, is amended to read:

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee regulated by the department under this subpart who is not in compliance with a court order of support is subject to the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201, but only if the license is for commercial use.

Sec. D-11. 12 MRSA §7079-A, as enacted by PL 1993, c. 410, Pt. V, §3, is amended to read:

§7079-A. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201, but only if the license is for commercial use.

Sec. D-12. 12 MRSA §7079-B, sub-§2, as enacted by PL 1993, c. 410, Pt. V, §3, is amended to read:

2. Noncompliance with a court order of support. An applicant for the issuance or renewal of a license or an existing licensee who is not in compliance with a court order of support is subject to the requirements of Title ~~49~~ 19-A, section ~~305~~ 2201, but only if the license is for commercial use.

Sec. D-13. 14 MRSA §252, as amended by PL 1989, c. 121, is further amended to read:

§252. Summary process where decree disobeyed; contempt

Whenever a party or the Department of Human Services, if it is subrogated to a party under Title ~~49~~ 19-A, chapter ~~7~~ 65, subchapter ~~V~~ II, article ~~3~~, complains in writing and under oath that the process, decree or order of court, which is not, except as provided in Title ~~49~~ 19-A, section ~~774~~ 2101, for the payment of money only, has been disregarded or disobeyed by any person, summary process shall issue by order of any justice, requiring that person to appear on a day certain and show cause why that person should not be adjudged guilty of contempt. Such a process ~~shall~~ must fix a time for answer to the complaint and may fix a time for hearing on oral testimony, depositions or affidavits, or may fix successive times for proof, counterproof and proof in rebuttal, or the time for hearing and manner of proof may be subsequently ordered upon the return day or thereafter. The court may for good cause enlarge the time for the hearing. If the person ~~so~~ summoned does not appear as directed or does not attend the hearing at the time appointed ~~therefor~~ as enlarged, or if, upon hearing, the person is found guilty of such disregard or disobedience, the person ~~shall~~ must be adjudged in contempt and the court may issue a capias to bring the person before it to receive sentence and may punish the person by ~~such~~ any reasonable fine or imprisonment ~~as~~ the case requires. The court may allow the offender to give bail to appear at a time certain, when the punishment may be imposed if the person continues in contempt; but when a second time found guilty of contempt in disregarding or disobeying the same order or decree, no bail ~~shall~~ may be allowed. When

the person purges that contempt, the justice may remit the fine or imprisonment or any portion thereof. Appeal from any order or decree or judgment under this section ~~shall~~ must be governed by the Maine Rules of Civil Procedure. Such an appeal ~~shall~~ may not suspend the enforcement of any such order or decree unless the court so directs.

Sec. D-14. 14 MRSA §704-A, sub-§2, ¶E, as enacted by PL 1975, c. 770, §80, is amended to read:

E. Conception resulting in paternity within the meaning of Title ~~49~~ 19-A, chapter ~~5~~ 53, subchapter ~~III~~ I;

Sec. D-15. 14 MRSA §705, last ¶, as enacted by PL 1993, c. 101, §1, is amended to read:

This section does not apply to service or execution of a protection from harassment order issued under Title 5, chapter 337-A or a protection from abuse order issued under Title ~~49~~ 19-A, chapter ~~44~~ 101.

Sec. D-16. 14 MRSA §2401, sub-§2, as amended by PL 1993, c. 114, §1 and affected by §4, is further amended to read:

2. Identification on docket. On and after January 1, 1992, judicial proceedings in any Maine court, including appeals from judicial proceedings, that affect title to real estate must be identified on the docket. Judicial proceedings subject to this section include but are not limited to proceedings involving:

- A. Partition actions;
- B. Boundary and access disputes;
- C. Insolvency;
- D. Mortgage foreclosure;
- E. Declaratory judgment actions;
- F. Attachment, mechanics liens and other statutory liens;
- G. Dissolution; and
- H. Actions to quiet title.

This section does not apply to the descent of real estate in divorce governed by Title ~~49~~ 19-A, section ~~725~~ 953, small claims actions in District Court or proceedings over which the Probate Court has exclusive jurisdiction.

Sec. D-17. 14 MRSA §3121-A, sub-§1, as amended by PL 1995, c. 419, §7, 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 ~~49~~ 19-A, section ~~504-C~~ 2361, subsection 2, any proceeding under this chapter 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 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 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 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 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. D-18. 14 MRSA §3128-A, sub-§1, as enacted by PL 1995, c. 419, §8, is amended to read:

1. Order; exceptions. If a child support obligor claims inability to pay in a disclosure proceeding under section 3125 or Title ~~49~~ 19-A, section ~~504-C~~ 2361, 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.

Sec. D-19. 14 MRSA §3134, sub-§1, as amended by PL 1995, c. 419, §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 49 19-A, section ~~504-C~~ 2361, 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 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 the creditor's representative can be reached and the address of the debtor.

Sec. D-20. 14 MRSA §3135, last ¶, as amended by PL 1995, c. 419, §10, 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, a contempt subpoena under section 3136 or an order to appear and disclose under Title 49 19-A, section ~~504-C~~ 2361, 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. D-21. 14 MRSA §6051, sub-§9 is amended to read:

9. Property matters between husband and wife. To hear and determine property matters between wife and husband or husband and wife as provided in Title 49 19-A, section ~~466~~ 806 and to make all necessary orders and decrees relating to such matters, ~~and~~ to issue all necessary process to enforce such orders and decrees, and to cause all such orders and decrees to be enforced;

Sec. D-22. 15 MRSA §891, as amended by PL 1989, c. 862, §2, is further amended to read:

§891. Dismissal on satisfaction of private injury; discharge of bail

When a person has been admitted to bail or is committed by a judge, or is indicted, or held upon a complaint and warrant for an assault or other Class D or E crime, as defined by Title 17-A, section 4-A, for which the party injured has a remedy by civil action, except aggravated assaults, assaults upon or resistance of a law enforcement officer as defined by Title 17-A in the execution of a law enforcement officer's duty,

assaults of those officers and crimes involving family or household members as defined in Title 49 19-A, chapter 44 101, if the injured party appears before the judge or court, and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may stay further proceedings and discharge the defendant. The judge may exonerate the bail and release the obligors, supersede the commitment by written order and exonerate the bail of the witnesses.

Sec. D-23. 17-A MRSA §212, sub-§1, as enacted by PL 1991, c. 866, §1, is amended to read:

1. A violation of this chapter committed against a member of the actor's family or household that would otherwise be a Class D crime is a Class C crime if the actor has 2 or more prior Maine convictions for violations of any combination of this chapter or of Title 49 19-A, section ~~769~~ 4011. For purposes of this section, the dates 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 date. 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 the offense being enhanced is presumed to be that date stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. D-24. 17-A MRSA §506-A, sub-§1, as amended by PL 1993, c. 475, §4, is further amended to read:

1. A person is guilty of harassment if, without reasonable cause, that person engages in any course of conduct with the intent to harass, torment or threaten another person, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace or by a court in a protective order issued under Title 5, section 4654 or 4655 or Title 49 19-A, section ~~765~~ 4006 or ~~766~~ 4007.

Sec. D-25. 17-A MRSA §506-B, sub-§3, as enacted by PL 1993, c. 475, §6, is amended to read:

3. Violation of a protection from abuse order issued under Title 49 19-A, section ~~765~~ 4006 or ~~766~~ 4007, subsection 1, paragraphs A to E G, is a Class D crime as provided in Title 49 19-A, section ~~769~~ 4011, subsection 1.

Sec. D-26. 17-A MRSA §1204, sub-§2-A, ¶D, as amended by PL 1995, c. 405, §1, is further 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 is considered

only as a violation of probation and 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~~ 19-A, section ~~770-C~~ 4014;

Sec. D-27. 22 MRSA §12, last ¶, as enacted by PL 1993, c. 415, Pt. E, §1, is amended to read:

The department may expend any unidentified child support payments and any interest earned on those funds that the department has received when the department can not identify the child for which payment was made. The department may expend these funds only in its efforts to enforce child support laws in accordance with Title ~~19~~ 19-A, ~~chapter 7~~ chapters 53, 63, 65 and 67. Before making any expenditure, the department must wait at least 12 months from the date the unidentified funds were received.

Sec. D-28. 22 MRSA §1711-B, sub-§4, as enacted by PL 1991, c. 142, §2, is amended to read:

4. Minors. This section does not affect the right of minors to have their treatment records treated confidentially pursuant to the provisions of ~~Title 19~~, chapter ~~48~~ 260.

Sec. D-29. 22 MRSA §2701, sub-§2, as amended by PL 1987, c. 268, §1, is repealed and the following enacted in its place:

2. Supervision. The state registrar has charge of the Office of Vital Statistics and is custodian of its files and records. The state registrar:

A. Shall preserve all certificates, records and other reports returned to the state registrar under this Title;

B. Has general supervision of this Title and rules of the department relating to the registration of vital statistics;

C. Has general supervision of Title 19-A, chapter 23;

D. Shall direct, supervise and control the activities of all persons engaged in the operation of the system of vital statistics;

E. Shall conduct training programs to promote uniformity of policy and procedures throughout the State in matters pertaining to the system of vital statistics; and

F. Shall monitor the accuracy, completeness and validity of all information returned to the state

registrar under this Title and Title 19-A, chapter 23.

Sec. D-30. 22 MRSA §2765, sub-§1, ¶A, as amended by PL 1993, c. 686, §6 and affected by §13, is further amended to read:

A. A certificate of adoption as provided in Title ~~19~~ 18-A, section ~~4125~~ 9-304, or a certified copy of the decree of adoption along with the information necessary to identify the original certificate and establish the new certificate of birth, except that a new certificate may not be established if so requested by the adopting parents or the adopted person if the adopted person is at least 18 years of age;

Sec. D-31. 22 MRSA §2765, sub-§1-A, ¶A, as amended by PL 1993, c. 686, §7 and affected by §13, is further amended to read:

A. A certificate of adoption as provided in Title ~~19~~ 18-A, section ~~4125~~ 9-304; and

Sec. D-32. 22 MRSA §2801, as amended by PL 1977, c. 9, is repealed.

Sec. D-33. 22 MRSA §2802, as amended by PL 1989, c. 225, §6, is repealed.

Sec. D-34. 22 MRSA §3754, last ¶, as amended by PL 1989, c. 834, Pt. B, §14, is further amended to read:

The department may bring proceedings in the District Court or Superior Court in the county where the child resides or in the county where the parent may be found to compel any person liable under this section to contribute to the support of any child receiving such aid, if after reasonable efforts on the part of the department, voluntary contributions have not been made. The department shall bring the action as a petition for support upon not less than 7 days' notice. The court may order either one or both parents of the child to contribute to the support of the child sums payable weekly or monthly as determined in accordance with Title ~~19~~ 19-A, chapter ~~7~~, ~~subchapter 1-A~~, 63 and may enforce obedience by appropriate decrees, execution issuing for said sums when payable. An order for child support under this section may include an order for the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the children or an order to provide a policy or contract for coverage of those expenses. When the defendant is committed to jail on execution under this section, the county having jurisdiction of the process shall bear the expense of the defendant's commitment and support. The defendant may petition the court issuing such execution for relief, whereupon the judge of the court, after due notice to the department and hearing on the petition,

may order the defendant's discharge from imprisonment on ~~such~~ the terms and conditions as justice requires.

Sec. D-35. 22 MRSA §3755-A, sub-§1, ¶¶B, C, E and F, as enacted by PL 1989, c. 255, are amended to read:

B. "Dependent child" has the same meaning as in Title ~~49~~ 19-A, section ~~493~~ 2101.

C. "Earnings" has the same meaning as in Title ~~49~~ 19-A, section ~~493~~ 2101.

E. "Person" has the same meaning as in Title ~~49~~ 19-A, section ~~493~~ 101.

F. "Responsible parent" has the same meaning as in Title ~~49~~ 19-A, section ~~493~~ 2101.

Sec. D-36. 22 MRSA §4005-B, sub-§6, as enacted by PL 1995, c. 290, §4, is amended 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 ~~49~~ 18-A, section ~~4429~~ 9-308. 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.

Sec. D-37. 22 MRSA §4007, sub-§6, as repealed and replaced by PL 1993, c. 248, §1, is amended to read:

6. Benefits and support for children in custody of department. When a child has been ordered into the custody of the department under this chapter, Title 15, chapter 507 or Title ~~49~~ 19-A, chapter ~~43~~ 55, within 30 days of the order, each parent shall provide the department with information necessary for the department to make a determination regarding the eligibility of the child for state, federal or other 3rd-party benefits; and shall provide any

necessary authorization for the department to apply for these benefits for the child.

Prior to a hearing under section 4034, subsection 4, section 4035 or section 4038, each parent shall file income affidavits as required by Title ~~49~~ 19-A, sections ~~342~~ 2002 and ~~344~~ 2004 unless current information is already on file with the court. If a child is placed in the custody of the department, the court shall order child support from each parent according to the guidelines pursuant to Title ~~49~~ 19-A, chapter ~~7~~ subchapter I-A 63, designate each parent as a nonprimary care provider and apportion the obligation accordingly.

Income affidavits and instructions must be provided to each parent by the department at the time of service of the petition or motion. The court may order a deviation pursuant to Title ~~49~~ 19-A, section ~~347~~ 2007. Support ordered pursuant to this section must be paid directly to the department pursuant to Title ~~49~~ 19-A, section ~~777~~ 19-A, subsection ~~3~~ 19-A, chapter 65, subchapter IV. The failure of a parent to file an affidavit does not prevent the entry of a protection order. A parent may be subject to Title ~~49~~ 19-A, section ~~344~~ 2004, subsection 1, paragraph D for failure to complete and file income affidavits.

Sec. D-38. 22 MRSA §4008, sub-§3, ¶B, as enacted by PL 1993, c. 686, §8 and affected by §13 is amended to read:

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title ~~18-A~~ 18-A, section ~~9-304~~ 9-304 or Title ~~49~~ 19-A, section ~~751~~ 1125 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court;

Sec. D-39. 22 MRSA §4008, sub-§3, ¶G, as amended by PL 1995, c. 391, §2, is further amended to read:

G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall comply with the requirements of Title ~~49~~ 18-A, section ~~4425~~ 9-304, subsection ~~2~~ (b) and section 8205.

Sec. D-40. 22 MRSA §4031, sub-§1, ¶D, as enacted by PL 1993, c. 686, §9 and affected by §13, is amended to read:

D. The District Court has jurisdiction over judicial reviews transferred to the District Court pursuant to Title ~~49 18-A~~, section ~~445 9-205~~.

Sec. D-41. 22 MRSA §4031, sub-§3, as amended by PL 1991, c. 548, Pt. A, §19, is further amended to read:

3. Scope of authority. The court shall consider and act on child protection petitions regardless of other decrees regarding a child's care and custody. The requirements and provisions of Title ~~49 19-A~~, chapter ~~46 57~~, the Uniform Child Custody Jurisdiction Act, do not apply to child protection proceedings. If custody is an issue in another pending proceeding, the proceedings may be consolidated in the District Court, with respect to the custody issue. In any event, the court shall make an order on the child protection petition in accordance with this chapter. That order takes precedence over any ~~other~~ prior order regarding the child's care and custody.

Sec. D-42. 22 MRSA §4036, sub-§1, ¶G, as amended by PL 1989, c. 834, Pt. B, §15, is further amended to read:

G. Payment by the parents of a reasonable amount of support for the child as determined or modified according to Title ~~49 19-A~~, chapter ~~7~~, ~~subchapter I-A 63~~;

Sec. D-43. 22 MRSA §4036, sub-§1, ¶I, as enacted by PL 1995, c. 405, §23, is amended 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 ~~49 19-A~~, section ~~770-C 4014~~.

Sec. D-44. 22 MRSA §4037, as amended by PL 1993, c. 686, §10 and affected by §13, is further amended to read:

§4037. Authority of custodian

When custody of the child is ordered to the department or other custodian under a preliminary or final protection order, the custodian has full custody of the child subject to the terms of the order and other applicable law. Custody does not include the right to initiate adoption proceedings without parental consent, except as provided under Title ~~49 18-A~~, section ~~4422 9-302~~.

Sec. D-45. 22 MRSA §4038-A, as enacted by PL 1993, c. 686, §11 and affected by §13, is amended to read:

§4038-A. Transfer to District Court

If a case is transferred to the District Court pursuant to Title ~~49 18-A~~, section ~~445 9-205~~, the

court shall conduct a hearing and enter a dispositional order using the same standards as set forth in section 4036. The court after the hearing and entering of a dispositional order shall conduct reviews in accordance with section 4038.

Sec. D-46. 22 MRSA §4041, sub-§1, as repealed and replaced by PL 1983, c. 772, §5, is amended to read:

1. Rehabilitation and reunification. When a child has been ordered into the custody of the department under this chapter or under Title ~~49 19-A~~, section ~~214 or section 752 1653~~, the responsibility for reunification and rehabilitation of the family ~~shall~~ must be shared as follows.

A. The department shall:

(1) Develop a rehabilitation and reunification plan, which ~~shall~~ must include the following:

(a) The reasons for the child's removal;

(b) Any changes ~~which~~ that must occur for the child to return home;

(c) Rehabilitation services ~~which~~ that must be completed satisfactorily prior to the return home;

(d) Services available to assist the parents in rehabilitating and reunifying with the child, including reasonable transportation within the area in which the child is located for visits if the parents are unable to afford that transportation;

(e) A schedule of visits between the child and the parents when visits are not detrimental to the child's best interests, including any special conditions under which the visits ~~shall~~ must take place;

(f) A reasonable time schedule for proposed reunification, which is reasonably calculated to meet the child's needs; and

(g) A delineation of the financial responsibilities of the parents and the department during the reunification process;

(2) Provide the parents with prompt written notice of the following, unless that notice would be detrimental to the best interests of the child:

- (a) The child's residence and, when practicable, at least 7 days' advance written notice of a planned change of residence; and
 - (b) Any serious injuries, major medical care received or hospitalization of the child;
 - (3) Make good faith efforts to cooperate with the parents in the development and pursuit of the plan;
 - (4) Periodically review with the parents the progress of the reunification plan and make any appropriate changes in that plan;
 - (5) Petition for judicial review and return of custody of the child to ~~his~~ the parents at the earliest appropriate time; and
 - (6) Petition for termination of parental rights at the earliest possible time that it is determined that family reunification efforts will be discontinued pursuant to subsection 2 and that termination is in the best interests of the child;
- B. Parents are responsible for rectifying and resolving problems ~~which that~~ prevent the return of the child to the home and shall take part in a reasonable rehabilitation and reunification plan and shall:
- (1) Maintain meaningful contact with the child pursuant to the reunification plan. When a parent has left the area where the child has been placed, this ~~shall~~ must include making arrangements to visit the child at or near ~~his~~ the child's placement;
 - (2) Seek and utilize appropriate services to assist in rehabilitating and reunifying with the child;
 - (3) Pay reasonable sums toward the support of the child within the limits of their ability to pay;
 - (4) Maintain contact with the department, including prompt written notification to the department of any change of address; and
 - (5) Make good faith efforts to cooperate with the department in developing and pursuing the plan; and
- C. ~~Where~~ When the parties ~~cannot~~ can not agree as to contents of a reasonable rehabilitation and reunification plan, any party may file a motion for judicial review pursuant to section 4038. At the review, the court shall review the proposed

plans of either party and shall order reasonable reunification plans as it ~~deems~~ determines necessary.

Sec. D-47. 22 MRSA §4052, sub-§2, as amended by PL 1983, c. 249, §1, is further amended to read:

2. Time filed. A termination petition may be brought no earlier than 3 months after disposition under section 4036 or under Title ~~49~~ 19-A, section ~~213, 214~~ 1502 or ~~752~~ 1653.

Sec. D-48. 22 MRSA §4055, sub-§1, ¶A, as amended by PL 1983, c. 249, §2, is further amended to read:

A. One of the following conditions has been met:

(1) Custody has been removed from the parent under:

- (a) Section 4035 or 4038;
- (b) Title ~~49~~ 19-A, section ~~213, 214~~ 1502 or ~~752~~ 1653; or
- (c) Section 3792 prior to the effective date of this chapter; or

(2) The petition has been filed as part of an adoption proceeding in Title ~~49~~ 18-A, ~~chapter 9~~ article IX; and

Sec. D-49. 22 MRSA §4171, sub-§1, ¶A, as enacted by PL 1983, c. 721, is amended to read:

A. Finding adoptive families for children for whom state assistance is desirable, pursuant to the Adoption Assistance Program established in Title ~~19, chapter 10, the Adoption Subsidy Act~~ 18-A, article IX, Part 4, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

Sec. D-50. 24-A MRSA §1535, sub-§1, ¶A, as amended by PL 1995, c. 329, §19, further amended to read:

A. The agent is subject to suspension or revocation of license under section 1539, Title ~~49~~ 19-A, section ~~305~~ 2201, subsections 6 and 7 or Title 36, section 175;

Sec. D-51. 25 MRSA §2003, sub-§4, ¶A, as enacted by PL 1985, c. 478, §2, is amended to read:

A. Information of record relative to incidents of abuse by the applicant of family or household

members, provided pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1;

Sec. D-52. 25 MRSA §2003, sub-§5, as enacted by PL 1985, c. 478, §2, is amended to read:

5. Access to confidential records. Notwithstanding that certain records retained by governmental entities are by law made confidential, the records pertaining to patient committals to Augusta Mental Health Institute and Bangor Mental Health Institute, and records compiled pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1, ~~which that~~ are necessary to the issuing authority's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 2005 ~~shall~~ must, at the request of the issuing authority, be made available for inspection by and dissemination to the issuing authority.

Sec. D-53. 26 MRSA §1191, sub-§7, ¶B, as amended by PL 1993, c. 6, Pt. C, §10, is further amended to read:

B. Notwithstanding any other provisions of this chapter, the commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations and who has been reported under paragraph A:

(1) Amounts in excess of income exempt under Title ~~49~~ 19-A, section ~~502~~ 2356, if neither subparagraph (2) nor subparagraph (3) applies;

(2) The amount, if any, determined pursuant to an agreement submitted to the commissioner under the United States Social Security Act, Section 454 (20) (B) (i), by the state or local child support enforcement agency, unless subparagraph (3) applies; or

(3) Any amount otherwise required to be so deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in the United States Social Security Act, Section 462 (e), properly served upon the commissioner, whether or not the individual has been reported under paragraph A.

Sec. D-54. 29-A MRSA §2459, 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. Compliance with support orders. In addition to other qualifications and conditions established by this Title, the right of an individual to hold a motor vehicle operator's license or permit

issued by the State is subject to the requirements of Title ~~49~~ 19-A, section ~~306~~ 2202.

2. Certification of noncompliance. Upon receipt of a written certification from the Commissioner of Human Services, as provided for in Title ~~49~~ 19-A, section ~~306~~ 2202, subsection 7, that a support obligor who owns or operates a motor vehicle is not in compliance with a court order of support, the Secretary of State shall suspend the license and right to operate and obtain the license of the individual so certified. The Secretary of State may not reinstate an operator's license suspended for noncompliance with a court order of support until the Commissioner of Human Services issues a release that states the obligor is in compliance with a court order of support or the court orders reinstatement.

Sec. D-55. 30-A MRSA §2652, sub-§1, ¶B, as amended by PL 1993, c. 405, §1, is further amended to read:

B. A birth, marriage or death as required by Title ~~19-A~~ 19-A, section ~~654~~ 654 and Title 22, sections 2702, 2703, ~~and~~ 2763 ~~and~~ 2802, 50¢;

(1) The municipality shall pay this fee;

Sec. D-56. 32 MRSA §8105, sub-§4, ¶A, as enacted by PL 1981, c. 126, §2, is amended to read:

A. Records of incidents of abuse by the applicant of family or household members provided pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1;

Sec. D-57. 32 MRSA §9405, sub-§2-C, ¶A, as enacted by PL 1987, c. 170, §10, is amended to read:

A. Information of record relative to incidents of abuse by the applicant of family or household members, provided pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1;

Sec. D-58. 32 MRSA §9405, sub-§4, ¶B, as enacted by PL 1987, c. 170, §10, is amended to read:

B. The records compiled pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1;

Sec. D-59. 32 MRSA §9410-A, sub-§5, ¶B, as enacted by PL 1987, c. 170, §12, is amended to read:

B. The records compiled pursuant to Title ~~49~~ 19-A, section ~~770~~ 4012, subsection 1;

Sec. D-60. 33 MRSA §480, sub-§2, as enacted by PL 1983, c. 748, §2, is amended to read:

2. Divorce action. The nonowner spouse has filed a claim in the registry of deeds pursuant to Title ~~49~~ 19-A, section ~~725~~ 953, and either the divorce action is still pending or the nonowner spouse has been granted an interest in the real estate by the court.

Sec. D-61. 36 MRSA §191, sub-§3, as amended by PL 1995, c. 419, §33, is further 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 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~~ 19-A, section ~~3755-A~~ 2152, 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.

Sec. D-62. 36 MRSA §5276-A, sub-§1, as amended by PL 1993, c. 395, §23, is further amended to read:

1. Generally. Any agency of the State, including the University of Maine System or the Maine Technical College System, that is authorized to collect from any individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The State Tax Assessor, upon any such notification, shall assist the requesting agency by setting off that debt, pursuant to rules promulgated by the State Tax Assessor, against any refund to which that individual or corporation is entitled under this Part. Liquidated child support debts that the Department of Human Services has contracted to collect, pursuant to Title ~~49~~ 19-A, section ~~448-A~~ 2103 or ~~495~~ 2301, subsection 2, are eligible, under the provisions of this section, for setoff against any refund due the obligated individual. The State Tax Assessor shall provide the creditor agency with the name, address and social security number of each debtor whose refund is subject to setoff.

Sec. D-63. 39-A MRSA §106, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§106. Invalidity of waiver of rights; claims not assignable

No agreement by an employee, unless approved by the board or by the Commissioner of Labor, to waive the employee's rights to compensation under this Act is valid. No claims for compensation under this Act are assignable or subject to attachment or liable in any way for debt, except for the enforcement of a current support obligation or support arrears pursuant to Title ~~49~~ 19-A, chapter ~~7~~ 65, subchapter ~~V~~ II, article 3 or Title ~~49~~ 19-A, chapter ~~44-A~~ 65, subchapter III, or for reimbursement of general assistance pursuant to Title 22, section 4318.

PART E

Sec. E-1. Policy changes. This Act contains the following policy changes.

1. It resolves ambiguities related to marriage licenses and the authority of the State Registrar of Vital Statistics in the Maine Revised Statutes, Title 19-A, chapter 23.

2. It revises the divorce laws to prohibit divorce on the basis of fraud rather than collusion in Title 19-A, chapter 29.

3. It extends the provisions covering domestic abuse to all proceedings that award or allocate parental rights and responsibilities, rather than limiting those provisions to divorce in Title 19-A, chapter 55.

4. It revises the provisions covering the crimes of cruelty to children and abandonment of children and places those crimes in the Maine Criminal Code in Part C.

5. It creates the Family Law Advisory Commission.

6. It revises the waiver requirements for putative fathers and legal fathers under the adoption laws, Title 18-A, Article IX, Part 2. A "putative father" is a person alleged to be the father of a child.

7. It revises consideration of "abandonment of the family residence" in the context of determining parental rights and responsibilities.

8. It requires that all awards of past child support be calculated using the child support guidelines, overruling White v. Allen, 667 A. 2d 112 (Me. 1995).

Sec. E-2. Effective date. Parts B, C, D and E of this Act take effect October 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 695

S.P. 666 - L.D. 1726

An Act to Implement the Recommendations of the Task Force to Study the Operations of the Department of 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, these improvements in the operations of the Department of Inland Fisheries and Wildlife must take effect July 1, 1996; 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 §7794, sub-§9, as amended by PL 1989, c. 493, §53, is repealed.

Sec. 2. 12 MRSA §7794, sub-§9-A is enacted to read:

9-A. Certificate of number; term. A certificate of number issued to the owner of a watercraft:

A. If issued prior to July 1, 1996, is valid from the date of issuance of that certificate of number until midnight on the last day of the 12th month after the month of issuance or midnight on December 31, 1996, whichever comes first; and

B. If issued on or after July 1, 1996, must be issued for a specific calendar year and is valid from January 1st to December 31st of the calendar year for which the certificate of number is issued.

A certificate of number issued to a dealer expires at midnight on December 31st of the calendar year for which the certificate was issued.

Sec. 3. 36 MRSA §1503, sub-§8, as amended by PL 1985, c.726, §2, is repealed.

Sec. 4. 36 MRSA §1503, sub-§8-A is enacted to read:

8-A. Registration period. The term "registration period" means, for watercraft having a certificate of number issued under Title 12, section 7794:

A. Prior to July 1, 1996, the period from the date of issuance of that certificate of number until midnight on the last day of the 12th month after the month of issuance or midnight on December 31, 1996, whichever comes first; and

B. On or after July 1, 1996, from January 1st to December 31st of the calendar year for which the certificate of number is issued.

Sec. 5. PL 1995, c. 455, §44, sub-§8 is enacted to read:

8. Additional task force meeting. The chair of the task force shall call a meeting of the task force on any day between June 1, 1996 and June 30, 1996 to review the progress of the Department of Inland Fisheries and Wildlife in implementing the recommendations of the task force. Members of the task force are not entitled to compensation or reimbursement of expenses for any meeting held under this section.

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

1996-97

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Savings Fund Program

All Other	\$178,000
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Appropriates funds to be used only to avoid future license fee increases.

Sec. 7. Retroactivity. That section of this Act that amends Public Law 1995, chapter 455 applies retroactively to December 1, 1995.

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

Effective April 11, 1996.

CHAPTER 696

S.P. 707 - L.D. 1806

An Act to Promote Choice and Quality in Long-term Care

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

Whereas, current law requiring completion of the certificate of need process causes delays in the development of community-based resources for long-term care; and

Whereas, prompt development of community-based long-term care resources is necessary for the comfort and safety of the elderly and disabled population of 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. 22 MRSA §303, sub-§5, as amended by PL 1981, c. 705, Pt. V, §3, is further amended to read:

5. Department. "Department" means the Department of Human Services, but does not include the Certificate of Need Advisory Committee ~~within the department.~~

Sec. A-2. 22 MRSA §303, sub-§7, as amended by PL 1981, c. 705, Pt. V, §5, is further amended to read:

7. Health care facility. "Health care facility" means ~~any facility, whether public or private, proprietary or not for profit, required to obtain a certificate of need in accordance with federal laws and regulations under the National Health Planning and Resources Development Act of 1974, or any amendment, and shall include hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including free-standing free-standing hemodialysis units, intermediate care facilities, rehabilitation facilities; and ambulatory surgical facilities, home health care providers and health maintenance organizations. The term shall not apply to any facility operated by religious groups~~

~~relying solely on spiritual means through prayer for healing.~~

Sec. A-3. 22 MRSA §303, sub-§11-A, as amended by PL 1987, c. 486, §1, is repealed.

Sec. A-4. 22 MRSA §303, sub-§11-C is enacted to read:

11-C. Hospital swing bed. "Hospital swing bed" means acute care beds licensed by the Division of Licensure and Certification, Bureau of Medical Services for use also as nursing care beds. Swing beds may be established only in rural hospitals with fewer than 100 licensed acute care beds.

Sec. A-5. 22 MRSA §303, sub-§12, as enacted by PL 1977, c. 687, §1, is repealed.

Sec. A-6. 22 MRSA §303, sub-§12-B is enacted to read:

12-B. Nursing facility. "Nursing facility" means any facility defined under section 1812-A.

Sec. A-7. 22 MRSA §303, sub-§§19 and 20, as enacted by PL 1977, c. 687, §1, are repealed.

Sec. A-8. 22 MRSA §303, sub-§21, as enacted by PL 1985, c. 418, §3, is repealed.

Sec. A-9. 22 MRSA §304-A, sub-§3, as amended by PL 1989, c. 919, §5 and affected by §18, is further amended to read:

3. Capital expenditures. The obligation by or on behalf of a health care facility, except a ~~skilled or intermediate care facility or~~ hospital, of any capital expenditure of ~~\$350,000 or more. Intermediate care and skilled nursing care facilities have a threshold of \$500,000 or more,~~ except that any transfer of ownership is reviewable;

Sec. A-10. 22 MRSA §304-A, sub-§3-A, as repealed and replaced by PL 1991, c. 485, §1 and affected by §10, is amended to read:

3-A. Hospital capital expenditures. The obligation, by or on behalf of a hospital, of any capital expenditure of ~~\$1,000,000~~ \$2,000,000 or more, except that:

A. A capital expenditure for the purpose of acquiring major medical equipment is reviewable only to the extent provided in subsection 2; and

B. Any transfer of ownership of a hospital is reviewable.

Sec. A-11. 22 MRSA §304-A, sub-§4, as enacted by PL 1981, c. 705, Pt. V, §16, is amended to read:

4. New health services. The offering or development of any new health service. For purposes of this section, "new health services" ~~shall~~ includes only the following:

A. The obligation of any capital expenditures by or on behalf of a health care facility ~~which that~~ is associated with the addition of a health service ~~which that~~ was not offered on a regular basis by or on behalf of the facility within the 12-month period prior to the time the services would be offered;

B. The addition of a health service ~~which that~~ is to be offered by or on behalf of a health care facility ~~which that~~ was not offered on a regular basis by or on behalf of the facility within the 12-month period prior to the time the services would be offered, and ~~which that~~, for the 3rd fiscal year of operation, including a partial first year, following addition of that service, absent any adjustment for inflation, is projected to entail annual operating costs of at least the expenditure minimum for annual operating costs; or

C. The addition of a health service ~~which that~~ falls within a category of health services ~~which that~~ are subject to review regardless of capital expenditure or operating cost and which category the department has defined through regulations promulgated pursuant to section 312, ~~based on recommendations from the State Health Coordinating Council;~~

This subsection does not prohibit a nursing facility from converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, public funds are not obligated for payment of services provided in the converted beds;

Sec. A-12. 22 MRSA §304-A, sub-§5, as amended by PL 1989, c. 919, §7 and affected by §18, is further amended to read:

5. Termination of a health service. The obligation of any capital expenditure by or on behalf of a health care facility other than a hospital that is associated with the termination of a health service that was previously offered by or on behalf of the health care facility; except, neither the conversion of licensed nursing facility beds to residential care beds nor a decrease in the licensed or certified bed capacity of a nursing facility may be considered a termination of a health service;

Sec. A-13. 22 MRSA §304-A, sub-§6, as amended by PL 1993, c. 410, Pt. FF, §1, is further amended to read:

6. Changes in bed complement. Any change in the existing bed complement of a health care facility other than a hospital; except that a decrease in the licensed or certified bed capacity of a nursing facility is not subject to review so long as any capital expenditure incurred in the decrease does not trigger review under subsection 3;

Sec. A-14. 22 MRSA §304-A, sub-§8, as amended by PL 1993, c. 283, §1, is further amended to read:

8. New health care facilities. The construction, development or other establishment of a new health care facility; subject to the following limitations; and

~~A. Except as provided in paragraph B, the department shall review certificate of need applications, including business plans, for home health care providers only to determine whether the provider is fit, willing and able to provide the proposed services at the proper standard of care as provided in section 309, subsection 1, paragraph A. The department shall establish a reduced filing fee for home health care providers whose applications are reviewed under this paragraph.~~

~~B. The department shall review an application for a home health care provider to determine its compliance with all the requirements of section 309, subsection 1 if the application involves:~~

~~(1) A business plan that forecasts 3rd year operating costs exceeding \$500,000; or~~

~~(2) A transfer of ownership of an existing home health care provider; and~~

Sec. A-15. 22 MRSA §304-D, as amended by PL 1991, c. 485, §2, is further amended by repealing and replacing the headnote to read:

§304-D. Waiver of certificate of need for certain minor projects

Sec. A-16. 22 MRSA §304-D, sub-§§2 and 5, as enacted by PL 1985, c. 661, §2, are repealed.

Sec. A-17. 22 MRSA §304-F is enacted to read:

§304-F. Procedures after voluntary nursing facility reductions

1. Procedures. A nursing home that voluntarily reduces the number of its licensed beds for any reason except to create private rooms may convert the beds back and thereby increase the number of nursing facility beds to no more than the previously licensed number of nursing facility beds, after obtaining a certificate of need in accordance with this section.

provided the facility has been in continuous operation and has not been purchased or leased. To convert beds back to nursing facility beds under this subsection, the nursing facility must:

A. Give notice of its intent to preserve conversion options to the department no later than 30 days after the effective date of the license reduction; and

B. Obtain a certificate of need to convert beds back under section 309, except that if no construction is required for the conversion of beds back, the application must be processed in accordance with subsection 2.

2. Expedited review. Except as provided in subsection 1, paragraph B, an application for a certificate of need to reopen beds reserved in accordance with this section must be processed on an expedited basis in accordance with rules adopted by the department providing for shortened review time and for a public hearing if requested by a directly affected person. The department shall consider and decide upon these applications as follows:

A. Review of applications that meet the requirements of this section must be based on the requirements of section 309, subsection 1, except that the determinations required by section 309, subsection 1, paragraph B must be based on the historical costs of operating the beds and must consider whether the projected costs are consistent with the costs of the beds prior to closure, adjusted for inflation; and

B. Conversion of beds back under this section must be requested within 4 years of the effective date of the license reduction. For good cause shown, the department may extend the 4-year period for conversion for one additional 4-year period.

3. Effect on other review proceedings. Nursing facility beds that have been voluntarily reduced under this section must be counted as available nursing facility beds for the purpose of evaluating need under section 309 so long as the facility retains the ability to convert them back to nursing facility use under the terms of this section, unless the facility indicates, in response to an inquiry from the department in connection with an ongoing project review, that it is unwilling to convert them to meet a need identified in that project review.

4. Rulemaking. Rules adopted pursuant to this section are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

Sec. A-18. 22 MRSA §306-A, sub-§6, as enacted by PL 1981, c. 705, Pt. V, §19, is amended to read:

6. Automatic withdrawal. Any incomplete application ~~shall be deemed~~ is considered withdrawn if the applicant fails to respond to a request for additional required information within ~~one year~~ 180 days of the date ~~such~~ the request was forwarded by the department.

Sec. A-19. 22 MRSA §306-A, sub-§§7 and 8 are enacted to read:

7. Voluntary withdrawal of application. During the review period, prior to the date that staff submit a final report to the commissioner, an applicant may withdraw an application without prejudice. Written notice of the withdrawal must be submitted to the department. A withdrawn application may be resubmitted at a later date, as a new application, requiring a new letter of intent and new filing fees, docketing and review.

8. Filing fee. A nonrefundable filing fee must be paid at the time an application is filed with the department.

A. The department shall establish minimum and maximum filing fees, pursuant to section 312, to be paid per application.

B. If the approved capital expenditure is higher than the initially proposed capital expenditure, then the filing fee must be recalculated and the difference in fees, if any, must be paid before the certificate of need may be issued.

C. Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

Sec. A-20. 22 MRSA §307, sub-§2-A, ¶A, as repealed and replaced by PL 1985, c. 737, Pt. A, §48, is amended to read:

A. The committee ~~shall be~~ is composed of 10 members, 9 of whom ~~shall be~~ are appointed by the Governor. The Commissioner of Human Services shall name a designee to serve as an ex officio, nonvoting member of the committee. The 9 members appointed by the Governor ~~shall~~ must be selected in accordance with the following requirements.

(1) Four members ~~shall~~ must be appointed to represent the following.

(a) One member ~~shall~~ must represent the hospitals.

(b) One member ~~shall~~ must represent the ~~nursing home~~ long-term care industry.

(c) One member ~~shall~~ must represent major 3rd-party payors.

(d) One member ~~shall~~ must represent ~~physicians~~ providers.

In appointing these representatives, the Governor shall consider recommendations made by the Maine Hospital Association, the Maine Health Care Association, the Maine Medical Association, the Maine Osteopathic Association and other representative organizations.

(2) Five public members ~~shall~~ must be appointed as consumers of health care. One of these members ~~shall~~ must be designated on an annual basis by the Governor as chair of the committee. Neither the public members nor their spouses or children may, within 12 months preceding the appointment, have been affiliated with, employed by, or have had any professional affiliation with any health care facility or institution, health product manufacturer or corporation or insurer providing coverage for hospital or medical care, ~~and provided that, however~~ neither membership in or subscription to a service plan maintained by a nonprofit hospital and medical service organization, nor enrollment in a health maintenance organization, nor membership as a policyholder in a mutual insurer or coverage under such a policy, nor the purchase of or coverage under a policy issued by a stock insurer may disqualify a person from serving as a public member.

Sec. A-21. 22 MRSA §307, sub-§2-B, ¶D, as amended by PL 1983, c. 722, is further amended to read:

D. The ~~chairman shall serve~~ chair serves as a voting presiding officer and, in consultation with the members of the committee, shall rule on the relevance of argument and evidence and make determinations as to reasonable questioning. The department's administrative hearing unit shall provide technical support to the committee for the conducting of hearings as necessary. Members of the committee may conduct reasonable questioning in the course of a hearing.

Sec. A-22. 22 MRSA §307, sub-§2-B, ¶H, as enacted by PL 1981, c. 705, Pt. V, §25, is amended to read:

H. At its next meeting following the receipt of comments pursuant to paragraph F or G, or in the case of a public hearing pursuant to paragraph G, the committee shall make a recommendation of approval ~~or~~ disapproval or approval with conditions with respect to the application or applications under consideration. This meeting is open to the public; however, during the committee's deliberations, participation is limited to committee members. The recommendation ~~shall~~ must be determined by majority vote of the appointed members present and voting. Members of the committee may make additional oral comments or submit written comments, as they ~~deem~~ consider appropriate, with respect to the basis for their recommendations or their individual views. The committee recommendation and any accompanying comments ~~shall~~ must be forwarded to the commissioner. If the committee is unable to obtain a majority on a recommendation, the committee shall report to the commissioner the result of any vote taken.

Sec. A-23. 22 MRSA §307, sub-§5-A, ¶B, as amended by PL 1985, c. 418, §9, is further amended to read:

B. After reviewing each application, the commissioner shall make a decision either to issue a certificate of need or to deny the application for a certificate of need. The decision of the commissioner ~~shall~~ must be based on the informational record developed in the course of review as specified in paragraph C. The commissioner may issue a certificate of need with specific conditions. Notice of the decision ~~shall~~ must be sent to the applicant and the committee. This notice ~~shall~~ must incorporate written findings ~~which~~ that state the basis of the decision, including the findings required by section 309, subsection 1. If the decision is not consistent with the recommendations of the Certificate of Need Advisory Committee, the commissioner shall provide a detailed statement of the reasons for the inconsistency.

Sec. A-24. 22 MRSA §307, sub-§6-A, as amended by PL 1993, c. 410, Pt. FF, §2, is further amended to read:

6-A. Review cycles. The department shall establish review cycles for the review of applications. There must be at least one review cycle for each type or category of project each calendar year, the dates for which must be published at least 3 months in advance. An application must be reviewed during the next scheduled review cycle following the date on which the application is either declared complete or submitted for review pursuant to section 306-A, subsection 4, paragraph B. ~~Hospital projects that must be considered~~

~~within the constraints established by the Certificate of Need Development Account established pursuant to section 396 K may be grouped for competitive review purposes at least once each year; provided that, for minor projects, as defined by the department through rules adopted pursuant to section 312, the department shall allocate a portion of the Certificate of Need Development Account for the approval of those projects and shall establish at least 6 review cycles each year for the review of those projects. Nursing home projects that propose to add new nursing home beds to the inventory of nursing home beds within the State may be grouped for competitive review purposes consistent with appropriations made available for that purpose by the Legislature. A nursing home project that proposes renovation, replacement or other actions that will increase Medicaid costs and for which an application is filed after March 1, 1993 may be approved only if appropriations have been made by the Legislature expressly for the purpose of meeting those costs, except that the department may approve, without a prior appropriation for the express purpose, projects to reopen beds previously reserved by a nursing facility through a voluntary reduction pursuant to section 304-F, provided that the annual total of reopened beds approved does not exceed 100. The department may hold an application for up to 90 days following the commencement of the next scheduled review cycle if, on the basis of one or more letters of intent on file at the time the application is either declared complete or submitted for review pursuant to section 306-A, subsection 4, paragraph B, the department expects to receive within the additional 90 days one or more other applications pertaining to similar types of services, facilities or equipment affecting the same health service area. Pertinent health service areas must be defined in rules adopted by the department pursuant to section 312, based on recommendations by the State Health Coordinating Council.~~

Sec. A-25. 22 MRSA §309, sub-§1, ¶D, as amended by PL 1995, c. 462, Pt. A, §41, 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 K with respect to the ability of the citizens of the State to pay for the proposed services.

Sec. A-26. 22 MRSA §309, sub-§2, as amended by PL 1985, c. 661, §§4 and 5, is repealed.

Sec. A-27. 22 MRSA §309, sub-§2-A is enacted to read:

2-A. Criteria for certificate of need. In determining whether to issue or deny a certificate of need under subsection 1, the department shall, among other criteria, consider the following:

A. Whether the project will substantially address specific problems or unmet needs in the area to be served by the project;

B. Whether the project will have a positive impact on the health status indicators of the population to be served;

C. Whether the services affected by the project will be accessible to all residents of the area proposed to be served. Accessibility is determined through analysis of the area including population, topography and availability of transportation and health services;

D. Whether there are less costly or more effective alternate methods of reasonably meeting identified health service needs of the project;

E. Whether the project is financially feasible in both an intermediate and long-term time frame;

F. Whether the project would produce a cost benefit in the existing health care system of the State and the area in which the project is proposed;

G. Whether the quality of any health care provided by the applicant in the past meets industry standards; and

H. Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project.

Sec. A-28. 22 MRSA §309, sub-§3, as enacted by PL 1981, c. 705, Pt. V, §33, is repealed.

Sec. A-29. 22 MRSA §309, sub-§6, as amended by PL 1989, c. 502, Pt. A, §65, is further amended to read:

6. Hospital projects. ~~Notwithstanding subsections 1, 4 and 5, the department may not issue a certificate of need for a project which is subject to the provisions of section 396 D, subsection 5, and section 396 K, if the associated costs exceed the amount which the commission has determined will have been credited to the Certificate of Need Development Account pursuant to section 396 K, after accounting~~

for previously approved projects. A project shall not be denied solely on the basis of exceeding the amount remaining in the Certificate of Need Development Account or Hospital Development Account in a particular payment year and shall be held for further consideration by the department in the first appropriate review cycle beginning after the Certificate of Need Development Account or Hospital Development Account is credited with additional amounts. Projects which that are carried forward shall compete equally with newly proposed projects. For the purposes of this subsection, a project may be held for a final decision beyond the time frames set forth in section 307, subsection 3.

Sec. A-30. 22 MRSA §309, sub-§7, as enacted by PL 1989, c. 501, Pt. P, §24, is repealed.

Sec. A-31. 22 MRSA §324, as enacted by PL 1981, c. 705, is repealed and the following enacted in its place:

§324. Review

The department shall report to the legislative joint standing committee having jurisdiction over health and institutional services not later than January 31, 1999 on the continuing feasibility of this chapter.

Sec. A-32. 22 MRSA §1708, sub-§3, ¶¶B and C, as enacted by PL 1991, c. 591, Pt. E, §21 and affected by §22, are amended to read:

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities; ~~and~~

C. Are consistent with federal requirements relative to limits on reimbursement under the federal Social Security Act, Title XIX; and

Sec. A-33. 22 MRSA §1708, sub-§3, ¶D is enacted to read:

D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period in accordance with section 304-F. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department.

Sec. A-34. 22 MRSA §1715, sub-§1, as enacted by PL 1989, c. 919, §15 and affected by §18, is amended by amending the first paragraph to read:

1. Access requirements. Any person, including, but not limited to an affiliated interest as defined in section 396-L, that is subject to the requirements of this subsection, shall provide the services listed in paragraph C to individuals who are eligible for charity care in accordance with a charity care policy adopted by the affiliate or provider that is consistent with rules applicable to hospitals under section ~~396-F~~ 1716. A person is subject to this subsection if that person:

Sec. A-35. 22 MRSA §1715, sub-§2, ¶¶A and B, as enacted by PL 1989, c. 919, §15 and affected by §18, are amended to read:

A. Any person who knowingly violates any provision of this section or any valid order or rule made or adopted pursuant to section ~~396-F~~ 1716, or who willfully fails, neglects or refuses to perform any of the duties imposed under this section, commits a civil violation for which a forfeiture of not less than \$200 and not more than \$500 per patient may be adjudged with respect to each patient denied access unless specific penalties are elsewhere provided. Any forfeiture imposed under this section may not exceed \$5,000 in the case of the first judgment under this section against the provider, \$7,500 in the case of a 2nd judgment against the provider or \$10,000 in the case of the 3rd or subsequent judgment against the provider. The Attorney General is authorized to prosecute the civil violations.

B. Upon application of the Attorney General or any affected patient, the Superior Court or District Court has full jurisdiction to enforce the performance by providers of health care of all duties imposed upon them by this section and any valid rules adopted pursuant to section ~~396-F~~ 1716.

Sec. A-36. 22 MRSA §1716 is enacted to read:

§1716. 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. (1995). 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. The guidelines must include provisions for notice to the public and the opportunity for a fair hearing regarding eligibility for charity care.

Sec. A-37. 22 MRSA §3189, sub-§4, as amended by PL 1993, c. 410, Pt. FFF, §§7 and 8, is repealed.

Sec. A-38. 22 MRSA §3472, sub-§5, as amended by PL 1989, c. 858, §4, is further amended to read:

5. Department. "Department" means either the Department of Human Services ~~through its Bureau of Elder and Adult Services~~ or, in the case of mentally retarded adults, the Department of Mental Health and Mental Retardation.

Sec. A-39. 22 MRSA §4311, sub-§1-A, as enacted by PL 1983, c. 824, Pt. X, §4, is amended to read:

1-A. Municipalities reimbursed. When a municipality pays for expenses approved pursuant to section 4313 for hospital inpatient or outpatient care at any hospital ~~during the time preceding the hospital's first payment year, as defined in section 396-C, subsection 1~~, on behalf of any person who is otherwise eligible and who would have been entitled to receive payments for hospital care if that care had been rendered prior to May 1, 1984, for services under the Catastrophic Illness Program, section 3185, the department shall reimburse the municipality for 100% of those payments.

Sec. A-40. 22 MRSA §4313, sub-§1, as repealed and replaced by PL 1987, c. 347, §§4 and 7 and c. 542, Pt. H, §§4 and 8, is amended to read:

1. Emergency care. In the event of an admission of an eligible person to the hospital, the hospital shall notify the overseer of the liable municipality within 5 business days of the person's admission. In no event may hospital services to a person who meets the financial eligibility guidelines; adopted pursuant to section ~~396-F, subsection 1~~, 1716 be billed to the patient or to a municipality.

PART B

Sec. B-1. 22 MRSA §3174-I, ¶E, as amended by PL 1995, c. 170, §2, is further amended to read:

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, 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 under the assessment criteria and process in effect at the time of admission or is admitted as covered by Medicare for nursing facility services, but is reassessed as not needing ~~them~~ those services at the time the individual is found financially eligible, then ~~Medicaid~~ the department shall reimburse the nursing facility for services it provides to the individual in accordance with the ~~Maine Medical Assistance Manual, chapter II, section 67~~ principles of reimbursement for residential care facilities adopted by the department pursuant to section 3173. In calculating the fixed-cost component of per diem rates for nursing facility services, the department shall exclude days of service for which reimbursement is provided under this subparagraph.

Sec. B-2. 22 MRSA §3174-Q is enacted to read:

§3174-Q. Medicaid stability

Beginning August 1, 1996, the department shall obtain authorization from the Legislature before implementing changes in benefit structures and eligibility levels in the Medicaid program that could cause the following changes:

1. Percentages of enrollment. Changes in excess of 10% in the percentages of enrollment among different groups that are categorically eligible for Medicaid; and

2. Services covered. Elimination of services covered under the program on August 1, 1996.

Sec. B-3. 22 MRSA §3477, sub-§1, as amended by PL 1989, c. 858, §11, is further amended to read:

1. Reasonable cause to suspect. When, while acting in a professional capacity, an allopathic or osteopathic physician, medical intern, medical examiner, physician's assistant, dentist, chiropractor, podiatrist, registered or licensed practical nurse, certified nursing assistant, Christian Science practitioner, social worker, psychologist, pharmacist, physical therapist, speech therapist, occupational therapist, mental health professional, law enforcement official, coroner, emergency room personnel, ambulance attendant or emergency medical technician suspects that an adult has been abused, neglected or exploited, and has reasonable cause to suspect that the adult is incapacitated, then the professional shall immediately report or cause a report to be made to the department.

Whenever a person is required to report ~~in the capacity as a member of the staff of a medical, public or private institution, agency or facility, the staff person shall immediately notify the person in charge of the institution, agency or facility, or the designated agent of the person in charge, who shall then cause a report to be made. The staff person shall also make a report directly to the department.~~

Sec. B-4. 22 MRSA §3480, sub-§3 is enacted to read:

3. Right of entry and access to records of licensed facilities. The department and any duly designated officer or employee of the department have the right to enter upon and into the premises of any facility licensed under sections 1817 and 7801 in order to obtain information necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to a subsequent adult protective proceeding. The department has access to all records in the facility's possession that are relevant to the investigation of a report of suspected abuse, neglect or exploitation and any subsequent adult protective proceeding and is not required to issue a subpoena to the facility before obtaining access to the records.

Sec. B-5. 22 MRSA §5107-B is enacted to read:

§5107-B. Long-term Care Steering Committee

There is established the Long-term Care Steering Committee, referred to in this section as the "committee," to provide input to the commissioner on all policy initiatives, laws and rules concerning long-term care and assisted living in order to ensure that long-term care and assisted living programs reflect the needs and preferences of the elderly and individuals with disabilities.

1. Membership; terms. The committee consists of 9 members appointed by the Governor.

A. Two members must be adults with disabilities who are consumers of independent living services. Two members must be family members of individuals who are consumers of long-term care services, one of whom must represent persons with Alzheimer's disease or other dementia. Five members must be individuals over 65 years of age.

B. A member of the committee may not have any financial or governance interest in the provision of long-term care services.

2. Appointments. Statewide organizations representing the interests of the elderly and adults with disabilities, an association concerned with Alzheimer's disease and related disorders, a statewide independent living council, veterans' organizations, area agencies on aging and the long-term care ombudsman program may submit recommendations for members of the committee to the Governor, who shall make appointments to the committee with regard to the geographic and economic diversity of consumers of long-term care and assisted living services. By June 1, 1996, the Governor shall appoint 3 members to initial one-year terms on the committee, 3 members to initial 2-year terms and 3 members to initial 3-year terms. After the initial appointments, all members serve terms of 3 years.

3. Meetings. By July 1, 1996, the Governor shall convene the first meeting of the committee, at which the members shall elect a chair from among themselves. The committee shall meet at least once each month.

4. Reimbursement. Members of the committee are entitled to receive reimbursement for travel to meetings upon application to the Department of Human Services.

PART C

Sec. C-1. Report on criminal law enforcement. The Commissioner of the Department of Human Services shall convene a study group to review the department's case histories of reported crimes against the elderly and to identify the potential barriers to successful prosecution of crimes against the elderly, including a review of the Maine Criminal Code. The study group must include at least one representative from the Maine Prosecutors Association, one member from the Office of the Attorney General and one member from any other law enforcement agency. The study group may also include any other persons the department determines appropriate. The department shall provide the public at least 2 weeks' notice prior to each meeting. The study group shall report its findings and any proposed legislation to the joint standing committee of the

Legislature having jurisdiction over criminal justice matters no later than November 1, 1996.

Sec. C-2. Development limitation; report from Commissioner of Human Services.

Development of family care homes by the Department of Human Services is limited to 20 homes in which the cost of resident housing and care is reimbursed by the department and 20 homes in which the cost of resident housing and care is paid for with private funds. By January 1, 1997 the Commissioner of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the experience and progress of the department in developing adult family care homes.

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

Effective April 11, 1996.

CHAPTER 697

H.P. 1284 - L.D. 1764

An Act to Ensure the Proper and Humane Care of Persons Requiring Mental Health Services

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

Whereas, the discussion concerning closure of state mental health institutions is ongoing; and

Whereas, unless this legislation is enacted as an emergency measure, the continuation of or access to necessary mental health services for those persons requiring such services is in jeopardy; 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-B MRSA §3009 is enacted to read:

§3009. Access to mental health services

Any money that is identified as net General Fund savings through legislative actions or through departmental administrative actions due to the closure of or diminution of services at a state mental health

institution or to lowered administrative costs within the department must be used to provide mental health services to persons in need of those services in other appropriate settings and programs, including, but not limited to, community-based mental health programs. For the purposes of this section, "net General Fund savings" means total savings in the General Fund projected to be available due to a series of specific actions less any cost or liability resulting from implementing those actions.

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

Effective April 11, 1996.

CHAPTER 698

S.P. 704 - L.D. 1793

An Act to Extend the Electric Rate Stabilization Projects

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

Whereas, pursuant to current legislation, certificates of approval for electric rate stabilization projects may not be issued after February 1, 1996; and

Whereas, there continues to be a need for the approval of 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. 35-A MRSA §3156, last ¶, as amended by PL 1995, c. 120, §2 and affected by §5, is further amended to read:

A certificate may not be issued under this section after February 1, ~~1996~~ 1997.

Sec. 2. PL 1993, c. 712, §8, as amended by PL 1995, c. 120, §3 and affected by §5, is further 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 \$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 \$220,000,000 plus an amount determined by the Finance Authority of Maine of up to an additional aggregate of \$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, 1996~~ February 1, 1997. 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. 3. PL 1993, c. 712, §9, as amended by PL 1995, c. 120, §4 and affected by §5, is further amended to read:

Sec. 9. Reports. The Finance Authority of Maine shall report by February 1, 1996 and May 1, 1997 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 Each~~ 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 Each~~ 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 February 1, 1996 and May 1, 1997 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 Each~~ 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 Each~~ 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. 4. Retroactivity. This Act applies retroactively to February 1, 1996.

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

Effective April 11, 1996.

CHAPTER 699

H.P. 1337 - L.D. 1831

An Act to Create the Small Enterprise Growth Program

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

Sec. 1. 5 MRSA §12004-F, sub-§17 is enacted to read:

<u>17. Small</u>	<u>Expenses Only</u>	<u>10 MRSA</u>
<u>Enterprise Growth</u>		<u>§471</u>
<u>Board</u>		

Sec. 2. 10 MRSA c. 7, as amended, is repealed.

Sec. 3. 10 MRSA c. 13 is enacted to read:

CHAPTER 13

SMALL ENTERPRISE GROWTH PROGRAM

§381. Small Enterprise Growth Program established

There is established the Small Enterprise Growth Program.

§382. Definitions

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

1. Board. "Board" means the Small Enterprise Growth Board.

2. Fund. "Fund" means the Small Enterprise Growth Fund.

3. Program. "Program" means the Small Enterprise Growth Program.

4. Qualifying small business. "Qualifying small business" means a business employing 25 or fewer employees or having gross sales not exceeding \$2,000,000 within the most recent 12 months for which financial statements are available.

§383. Fund established

1. Creation of fund. There is established the Small Enterprise Growth Fund, which is a revolving fund used to provide funding for disbursements to qualifying small businesses in the State seeking to pursue an eligible project. The fund must be deposited with and maintained and administered by the Finance Authority of Maine and consists of appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund, all funds remaining in the Pine Tree Partnership Fund and any funds received from repayment, interest, royalties, equities or other interests in business enterprises, products or services. The fund is a nonlapsing fund.

2. Administrative expenses. Costs and expenses of maintaining and servicing the fund and administering the Small Enterprise Growth Program established by this chapter may be paid out of amounts in the fund.

§384. Board

1. Establishment; membership. There is established the Small Enterprise Growth Board, which consists of 11 members appointed by the Governor as follows:

- A. An experienced commercial lender;
- B. An attorney with knowledge of securities law;
- C. Five members of the public who have knowledge and experience in managing or investing in high-growth small businesses;
- D. Three members of the public who have knowledge and experience in the development of technological innovation; and
- E. The Commissioner of Economic and Community Development or the commissioner's designee, who shall serve as a voting ex officio member of the board.

2. Chair. The board shall annually elect a chair from among its members.

3. Terms. The members other than the Commissioner of Economic and Community Development or the commissioner's designee serve for one-year terms and may be reappointed.

4. Compensation. Members are entitled to compensation in accordance with Title 5, chapter 379.

§385. Duties of board

The board has the following powers and duties.

1. Receipt of money and property. The board may accept and receive gifts, grants, investments, bequests or devise from any source, including funds from the Federal Government or any subdivision of the Federal Government.

2. Administer program. The board must administer the Small Enterprise Growth Program and may contract with the Finance Authority of Maine, financial institutions, educational institutions, business enterprises, nonprofit institutions and organizations or individuals for such assistance in administering the program as the board may require.

3. Ownership interests. The board may not hold an ownership interest in a private enterprise unless it is determined by the board that such an interest is necessary to recover amounts due to the fund and the agreement between the board and the private enterprise contains a specific plan for the board to divest itself of the ownership at some future time.

4. Rules. The board may adopt rules, in accordance with the Maine Administrative Procedure Act, to carry out this chapter.

§386. Eligible projects

In order for a qualifying small business to be eligible for financial assistance under the program, the following criteria must be met.

1. Engagement; involvement. The qualifying small business must be engaged in or involve at least one of the following:

- A. Marine science;
- B. Biotechnology;
- C. Manufacturing;
- D. Export of goods or services to locations outside the State or activities that result in significant amounts of capital being imported into the State;
- E. Software development;
- F. Provision or development of environmental services or technologies;
- G. Provision or development of financial or insurance products or services;
- H. Production of value-added goods from natural resources; or
- I. Other enterprises that the board determines will further the purposes and intent of the pro-

gram, including, but not limited to, retail sales, tourism and agricultural production.

2. Growth; public benefit. The qualifying small business must demonstrate the potential for high growth and public benefit.

3. Need for assistance. The qualifying small business must provide evidence of each of the following:

A. Commitment of all reasonably available resources to the project;

B. A need for financial assistance from the fund to realize its projected growth and achievement of public benefits; and

C. Inability to access sufficient financial assistance from a financial institution.

4. Financing plan. The qualifying small business must submit a financing plan as part of an overall business plan. The proposed financing plan must include adequate mechanisms to monitor the accomplishment of the business plan as proposed.

The disbursement may not be used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity.

§387. Review of applications

In order to effectively review and process applications under the program, the board may delegate the authority to deny applications for disbursements from the fund to one or more subcommittees of the members. Such delegation may provide that the action of the subcommittee constitutes final agency action. The board may delegate authority to recommend approval of applications, but final approval may be given only by the board.

§388. Financing terms and conditions

Disbursements may be made from program funds under the following terms and conditions.

1. Disbursements. Disbursements may not exceed \$150,000 to a qualifying small business, including an affiliated entity.

2. Provide evidence. The qualifying small business must provide evidence satisfactory to the board of matching funds in cash in an amount equal to the disbursement. Such matching funds may be in the form of debt or equity, but must be at risk in the qualifying small business for a minimum of 5 years.

3. Agreement. The board must enter into an agreement with the recipient of the disbursement requiring repayment of the full amount disbursed, and

providing for the payment of interest at a rate based on the board's assessment of the risk of the disbursement. The agreement may provide for flexible payments based on the financial success of the recipient. In addition, in recognition of the degree of risk of the project, the agreement may require royalties or additional payments based on sales, net cash flow or other financial measures, or rights to equity in the enterprise in the form of warrants or similar rights.

4. Report. The board shall require that each disbursement recipient report to the board at least annually on each of the following factors:

A. Financial performance;

B. Job creation;

C. Technological progress;

D. Market progress; and

E. Any other factors as the board may require.

§389. Cooperation and coordination

The University of Maine System, the Small Business Development Center Program, the Maine World Trade Association and the Maine Science and Technology Foundation shall provide such support and assistance as the board may request, within the expertise of each.

§390. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the board, and each employee, contractor, agent or other representative of the board is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose. Title 17, section 3104 does not apply to any of those representatives. If a member does not participate in an action or deliberation with respect to a particular project, that member is presumed not to have personally and substantially participated in a decision of the board with respect to that project. Every interest of a board member in any matter before the board must be disclosed to the board in writing.

§391. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3, and except as provided in paragraph F, the board shall make available the following records, either to any person upon a request that reasonably describes the records to which access is sought or, if no request is made, in any manner and at any time that the board may determine:

A. After a written application or proposal for financial assistance or property transfer has been

filed in a form specified by or acceptable to the board:

(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;

(3) Description of projects and businesses benefiting or to benefit from the financial assistance;

(4) Names of transferors or transferees, including principals, of property to or from the board, the general terms of transfer and the purposes for which transferred property will be used; and

(5) Number of jobs and the amount of tax revenues projected and resulting from a project;

B. Any information pursuant to a waiver determined satisfactory by the board;

C. Information that, as determined by the board, has already been made available to the public; and

D. Information necessary to comply with Title 1, section 407, subsection 1.

The board shall provide to a legislative committee the information or records specified in a written request signed by the chair of that legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by the board prior to receipt of a written application or proposal, in a form specified by or acceptable to the board, for financial assistance to be provided by or with the assistance of the board or in connection with a transfer of property to or from the board. After receipt by the board of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection;

B. Any record obtained or developed by the board that:

(1) A person, including the board, to whom the record belongs or pertains has requested be designated confidential; and

(2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through board records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the board in the case of a person other than the board, to any person to whom the record belongs or pertains;

C. Any financial statement or tax return of an individual or any other record obtained or developed by the board the disclosure of which would constitute an invasion of personal privacy, as determined by the board;

D. Any record, including any financial statement or tax return obtained or developed by the board in connection with any monitoring or servicing activity by the board, pertaining to any financial assistance provided or to be provided by or with the assistance of the board;

E. Any record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of any person or project; and

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the board, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential.

3. Wrongful disclosure prohibited. A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information;

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;

C. To a financing institution or credit reporting service;

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;

E. If necessary to ensure collection of any obligation in which it has or may have an interest;

F. In any litigation or proceeding in which the board has appeared, introduction for the record of any information obtained from records declared confidential by this section; and

G. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority.

§392. Governmental function

The board shall administer and exercise the authority granted to it by this chapter. The carrying out of its powers and duties is considered the performance of an essential governmental function.

Sec. 4. Rules. Any rule adopted by the Small Enterprise Growth Board pursuant to this Act is a technical rule.

See title page for effective date.

CHAPTER 700

H.P. 1353 - L.D. 1854

An Act to Implement the Recommendations of the Land and Water Resources Council Regarding Gravel Pits and Rock Quarries

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

Sec. 1. 38 MRSA §480-Q, sub-§3, as enacted by PL 1987, c. 809, §2, is repealed.

Sec. 2. 38 MRSA §482, first ¶, as amended by PL 1993, c. 350, §1, is further amended to read:

As used in this article ~~and article 7~~, unless the context otherwise indicates, the following terms have the following meanings.

Sec. 3. 38 MRSA §482, sub-§2, as repealed and replaced by PL 1993, c. 680, Pt. C, §7, is amended to read:

2. Development that may substantially affect the environment. "Development that may substantially affect the environment," in this article also called "development," means any federal, state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development that:

A. Occupies a land or water area in excess of 20 acres;

~~B. Contemplates drilling for or excavating natural resources on land or under water where the area affected is in excess of 60,000 square feet;~~

C. Is a metallic mineral mining or advanced exploration activity as defined in this section;

D. Is a structure as defined in this section; or

E. Is a subdivision as defined in this section.

~~"Development" does not include borrow pits regulated under article 7.~~

Sec. 4. 38 MRSA §482, sub-§2-B, as repealed and replaced by PL 1993, c. 383, §5 and affected by §42, is amended to read:

2-B. Metallic mineral mining or advanced exploration activity. "Mining Metallic mineral mining or advanced exploration activity," in this article also called "mining," means an activity or process necessary for the extraction or removal of the product metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of the product and includes one or more of the following: metallic minerals and includes the bulk sampling, extraction or beneficiation of metallic minerals, not including test sampling methods conducted in accordance with rules adopted by the department such as test boring, test drilling, hand sampling and digging of test pits with a limited maximum surface opening or methods determined by the department to cause minimal disturbance of soil or vegetative cover.

~~A. An excavation of more than 5 acres of land for borrow, topsoil, clay or silt whether alone or in combination;~~

~~B. The bulk sampling, extraction or beneficiation of metallic minerals, not including test sampling methods conducted in accordance with rules adopted by the department such as test boring, test drilling, hand sampling and digging of test pits with a limited maximum surface opening or methods determined by the department to cause minimal disturbance of soil or vegetative cover; or~~

~~C. The extraction or removal of more than 1,000 cubic yards of product or overburden, other than an excavation for borrow, topsoil, clay, silt or metallic minerals, from the earth within 12 successive calendar months.~~

~~"Mining activity or advanced exploration" does not include either excavation or grading preliminary to a construction project, unless intended to circumvent this article, or any other mining activity specifically exempted in this Title. An excavation of 5 or fewer acres of land for topsoil, clay or silt must be conducted and reclaimed in accordance with the erosion and sedimentation control standards contained in board rules.~~

Sec. 5. 38 MRSA §482, sub-§4-A, as enacted by PL 1979, c. 466, §13, is repealed.

Sec. 6. 38 MRSA §484, sub-§3, ¶¶D and E, as enacted by PL 1995, c. 287, §2, are repealed.

Sec. 7. 38 MRSA §484-A, first and last ¶¶, as enacted by PL 1993, c. 350, §4, are amended to read:

~~Notwithstanding section 482, subsection 2, If a borrow pit within the jurisdiction of the department that on October 1, 1993 was between 5 and 30 acres on October 1, 1993 and did not possess a valid license was not licensed as required under this article, its owner or operator is not required to obtain a license under this article if:~~

An unlicensed borrow pit of 5 or more acres is in violation of this article if the owner or operator of that pit does not file a notice of intent to comply under subsection 1. The written enforcement policy for responding to violations referred to in section 343-C, subsection 1 does not apply to the owner or operator of an excavation regulated under article 7.

Sec. 8. 38 MRSA §488, sub-§11, as enacted by PL 1993, c. 383, §26 and affected by §42, is amended to read:

11. Farm and fire ponds. A pond or ponds having a total surface area of less than 10 acres, on a parcel, that is used for irrigation of field crops, water storage for cranberry operations or fire protection determined to be necessary in that location by the municipal fire department is exempt from review under this article. This provision does not provide an exemption for mining or advanced exploration activity or excavation for borrow, clay, topsoil or silt.

Sec. 9. 38 MRSA §488, sub-§16, as enacted by PL 1995, c. 287, §5, is repealed.

Sec. 10. 38 MRSA §489-A, sub-§1, ¶F, as enacted by PL 1993, c. 383, §27 and affected by §42, is repealed.

Sec. 11. 38 MRSA §490, sub-§1, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §103, is further amended to read:

1. Requirement. ~~All mining~~ Mining activities must include provisions for safety and reclamation of the land area affected or otherwise comply with an approval issued pursuant to this chapter. ~~For a metallic ore mine, these~~ These provisions must include a plan for the maintenance of the mine site during mining and for a period after termination of mining, including the methods and annual estimated costs for gas monitoring; leachate pumping, transportation, monitoring and treatment; ground water monitoring, collection and analysis; such revegetation as the department determines necessary; and activities necessary for prevention of soil erosion and for protection of ground and surface waters.

Sec. 12. 38 MRSA c. 3, sub-c. I, art. 7 is amended by repealing the article headnote, as enacted by PL 1993, c. 350, §5, and enacting the following in its place:

Article 7

PERFORMANCE STANDARDS FOR EXCAVATIONS FOR BORROW, CLAY, TOPSOIL OR SILT

Sec. 13. 38 MRSA §490-A, sub-§1, as enacted by PL 1993, c. 350, §5, is amended to read:

1. Affected land. "Affected land" means reclaimed and unreclaimed 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 ~~any storage area areas~~ or other land ~~area~~, except a natural buffer ~~strip strips~~, that will be or has been used in connection with the ~~borrow pit excavation~~.

Sec. 14. 38 MRSA §490-A, sub-§1-A is enacted to read:

1-A. Excavation. "Excavation" means an excavation for borrow, topsoil, clay or silt, whether alone or in combination.

Sec. 15. 38 MRSA §490-A, sub-§§2-B to 2-F are enacted to read:

2-B. Naturally internally drained. "Naturally internally drained" means areas of a site that, as a result of the predevelopment topography and interim and final topography produced during development of the site, are and will remain at all times over the course of the development graded so that neither eroded materials nor runoff either crosses the property

boundary or enters a protected natural resource, natural buffer strip or other protected area. Areas that rely on man-made structures, including but not limited to berms, dikes, basins or undersized culverts, in order to maintain internal drainage are not considered naturally internally drained.

2-C. Overburden. "Overburden" means earth and other materials naturally lying over the product to be removed.

2-D. Owner or operator. "Owner" or "operator" means the owner or operator of an excavation.

2-E. Passenger car equivalents at peak hour. "Passenger car equivalents at peak hour" means the number of passenger cars, or, in the case of nonpassenger vehicles, the number of passenger cars that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. For purposes of this article, one tractor-trailer combination is the equivalent of 2 passenger cars.

2-F. Primary sand and gravel recharge area. "Primary sand and gravel recharge area" means the surface directly overlying sand and gravel formations that provides direct replenishment of groundwater in sand and gravel fractured bedrock aquifers. The term does not include areas overlying formations that have been identified as unsaturated and are not contiguous with saturated formations.

Sec. 16. 38 MRSA §490-A, sub-§3, as enacted by PL 1993, c. 350, §5, is amended to read:

3. Private drinking water supply. "Private drinking water supply" means a surface water supply, a 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 public drinking water supply.

Sec. 17. 38 MRSA §490-A, sub-§5, as repealed and replaced by PL 1995, c. 287, §6, is amended to read:

5. Public drinking water source. "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~~ 60 days out of the year.

Sec. 18. 38 MRSA §490-A, sub-§5-A is enacted to read:

5-A. Reclamation. "Reclamation" means the rehabilitation of the area of land affected by mining, including, but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest and the enhancement of wildlife and aquatic habitat and aquatic resources.

Sec. 19. 38 MRSA §490-A, sub-§6, as enacted by PL 1993, c. 350, §5, is amended to read:

6. Regulator. "Regulator" means:

A. For ~~medium borrow pits~~ an excavation located wholly within a municipality that is registered under section 490-I to enforce this article, the municipality; and

B. For all other ~~medium borrow pits~~ excavations, the Department of Environmental Protection.

Sec. 20. 38 MRSA §490-A, sub-§§6-A to 6-C are enacted to read:

6-A. Significant sand and gravel aquifer. "Significant sand and gravel aquifer" means a deposit of ice-contact and glacial outwash sediment that stores and transmits significant quantities of recoverable water. Significant sand and gravel aquifers are typically located in stratified drift deposits such as eskers, glaciomarine deltas, kames, kame terraces and outwash plains.

6-B. Silt or clay. "Silt" or "clay" means a material that consists of particles of such a size that 45% or more of the fraction of those particles able to pass through a 3-inch sieve pass through the United States Standard Number 200 sieve, or a material that exhibits similar erosion potential, difficulty of stabilization or runoff based upon its gradation, plasticity, permeability or other relevant criteria.

6-C. Topsoil. "Topsoil" means the top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Sec. 21. 38 MRSA §490-A, sub-§7, as enacted by PL 1993, c. 350, §5, is repealed and the following enacted in its place:

7. Working pit. "Working pit" means the extraction area, including side slopes, of an excavation for borrow, clay, silt or topsoil. "Working pit" does not include a stockpile area or an area that has a permanent fixed structure such as an office building, permanent processing facility or fixed fuel storage structure.

Sec. 22. 38 MRSA §490-B, as enacted by PL 1993, c. 350, §5, is repealed and the following enacted in its place:

§490-B. Applicability

Sections 490-A to 490-K apply to any excavation for borrow, clay, topsoil or silt, whether alone or in combination, if the total excavated area on a parcel is 5 or more acres, including reclaimed and unreclaimed areas, and section 490-M applies to a total excavated area of less than 5 acres. This article applies if the excavation is located in whole or in part within an organized area of this State.

A person in possession of a valid site location of development permit for a borrow pit or topsoil, clay or silt mining operation shall operate that pit or operation in compliance with the terms and conditions of the permit. Any modification of the permit must be in conformance with section 484. A person with a permit under article 6 may file a notice of intent to comply under this article. The permit issued under article 6 lapses as of the date a complete notice of intent is filed with the department. If the permittee chooses to substitute a notification pursuant to this article, all terms and conditions that applied to the permit issued pursuant to article 6 are incorporated into the notification approved pursuant to this article.

This article does not apply to:

2. Maine Land Use Regulation Commission pits. An excavation wholly within the jurisdiction of the Maine Land Use Regulation Commission;

4. Excavations reviewed under laws regarding the protection of natural resources. An excavation to the extent that it is located in a protected natural resource and requires a permit under the laws regarding the protection of natural resources in article 5-A; or

5. Grading preliminary to construction. An excavation or grading preliminary to a construction project unless it is intended to circumvent this article.

Sec. 23. 38 MRSA §490-C, as amended by PL 1995, c. 287, §7, is further amended to read:

§490-C. Notice of intent to comply

Except as provided in section 484-A, a person intending to operate a borrow pit as a medium borrow pit create or operate an excavation under this article must file a notice of intent to comply before expanding that pit to the total area of excavation on the parcel equals 5 or more acres excavated since January 1, 1970. Both reclaimed and unreclaimed areas are added together in determining whether this 5-acre threshold is met. A notice filed under this

section must be complete, submitted on forms approved by the department and mailed to the municipality, the department, the Maine Historic Preservation Commission and each abutting property owner. The notice that is mailed to the municipality and each abutting property owner must be mailed at least 7 days prior to filing the notice of intent to comply with the regulator. The notice that is mailed to the regulator must be sent by certified mail, return receipt requested. Upon receiving the postal receipt, the owner or operator may commence operation of the borrow pit. The municipality where the proposed excavation is located may submit comments to the department if the proposed excavation may pose an unreasonable adverse impact under the standards in section 490-D. Within 30 days of receipt of the notice of intent to comply, the department must respond to the comments made by the municipality.

A notice of intent to comply is not complete unless it includes all the following information:

1. Name, address and telephone number. The name, mailing address and telephone number of the owner of the borrow pit and, if different from the owner, the operator of the borrow pit;

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 sources and all existing or proposed solid waste disposal areas;

3. Parcel description. A parcel description and size, by tax map or deed description;

4. Information on abutters. The name names and address addresses of abutting property owners;

5. Signed statement. A statement, signed and dated by the owner or operator, certifying that the borrow pit excavation will be operated in compliance with this article; and

6. Fees. Any fee required by section 490-J.

If the department determines that a notice filed under this section is not complete, the department must notify the owner or operator of the borrow pit no later than 45 days after receiving the notice.

Sec. 24. 38 MRSA §490-D, as amended by PL 1995, c. 460, §8, is further amended to read:

§490-D. Performance standards

1. Significant wildlife habitat. Affected land may not be located in a significant wildlife habitat, as defined in section 480-B, or in an area listed under pursuant to the Maine Natural Heritage Program under

Natural Areas Program, Title 5, section ~~13074-A~~ 13076. The department may not grant a variance from the provisions of this subsection.

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. 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 200-foot separation must be maintained between any 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 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. 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 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.

E. Excavation below the seasonal high water table of an area previously designated for potential use as a public drinking water source by a municipality or private water company is prohibited. If the yield of groundwater flow to protected waters or wetlands is not adversely affected, the department may grant a variance allowing excavation below the seasonal high water table of a mapped significant sand and gravel aquifer, or primary sand and gravel recharge area, or an unconsolidated deposit in other locations.

F. In the event of excavation below the seasonal high water table, the operator of a mining activity that affects a public drinking water source or private drinking water supply by excavation activities causing contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This paragraph is not intended to replace any independent action that a person whose water supply is affected by a mining activity may have.

G. In the event of excavation below the seasonal high water table, a 300-foot separation must be maintained between the limit of excavation and any predevelopment private drinking water supply, and a 1000-foot separation must be maintained between the limit of excavation and any public drinking water source or area previously designated for potential use as a public drinking water source by a municipality or private water company.

~~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. The separation distance requirements described in paragraphs A, B and C do not apply when the private water supply or~~

public drinking water source is owned by the owner of the excavation site.

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 medium 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.

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 the excavation or activities related to operation of the borrow pit the excavation 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. The department may not grant a variance from the provisions of this subsection.

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 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~~ Excavation activities conducted within 100 feet of a protected natural resource 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, river, stream, brook, coastal wetland; or 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~~ Peat lands dominated by shrubs, sedges and sphagnum moss.

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; or brook or the upland edge of a freshwater or coastal wetland. The department may not grant a variance from this subsection.

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. A natural buffer strip at least 25 feet wide must be maintained between the working edge of a topsoil 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. If a private road is contained within a wider right-of-way, the buffer is measured from the edge of the 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.~~

A distance specified in this subsection is measured from the outside edge of the shoulder of the road unless otherwise specifically provided.

7. Property boundary. A natural buffer strip at least 50 feet wide must be maintained between any excavation and a any property boundary. A natural buffer strip at least 25 feet wide must be maintained between any topsoil excavation and a property boundary. ~~This distance~~ These distances may be reduced to not less than 10 feet with the written permission of the affected 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 buffer strip between ~~borrow pits excavations~~ owned by abutting owners may be 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 subsection.

8. Erosion and sedimentation control. All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained at all times unless a variance is obtained from the department. ~~Berns or other structures may not be constructed to create or maintain internal drainage.~~

A. The area of a working pit may not exceed 10 acres.

B. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

C. Sediment may not leave the parcel or enter a protected natural resource.

D. Grubbed areas not internally drained must be stabilized.

E. Erosion and sedimentation control for access roads must be conducted in accordance with the department's best management practices for erosion and sedimentation control.

~~Except for the provisions of paragraph A, the department may not grant a variance from the provisions of this subsection. Notwithstanding any other provision of this article, a variance from paragraph A may not result in the combined working pit and stockpile area~~

~~exceeding 15 acres. The department may grant a variance from this subsection, except for paragraphs C, D and E.~~

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 intensity 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 unless a variance is obtained from the department. ~~Sediment may not leave the parcel or enter a protected natural resource. Grubbed areas not internally drained must be stabilized. Erosion and sedimentation control for access roads must be conducted in accordance with the best management practices for the control of erosion and sediment adopted by the department.~~

Grading or other construction activity on the site may not alter natural drainageways such that the drainage, other than that which occurred before development, adversely affects an adjacent parcels parcel of land, or that ~~the any~~ drainageways flowing from an adjacent parcels parcel of land to the parcel are impeded.

~~**10. Stockpiles.** There may not be more than 2 acres of stockpiles within the working pit at any time. The department may grant a variance from this subsection, except that a variance may not result in the combined working pit and stockpile area exceeding 15 acres.~~

~~**11. Traffic.** Entrances and exits of the borrow pit 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. The department may not grant a variance from the provisions of this subsection. The following provisions govern traffic.~~

A. Entrances and exits of the borrow pit 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. The department may not grant a variance from the provisions of this subsection. This paragraph is repealed July 1, 1997.

B. Any excavation activity that generates 100 or more passenger car equivalents at peak hour must comply with the applicable permit requirements under article 6. This paragraph takes effect July 1, 1997.

12. Noise. Noise levels may not exceed applicable noise limits in rules adopted by the board.

~~The department may not grant a variance from the provisions of this subsection.~~

13. Dust. Dust generated by activities at the ~~borrow-pit excavation site~~, including dust associated with traffic to and from the ~~borrow-pit excavation site~~, 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; ~~and~~

E. Stockpiling soil that is stripped or removed for use in reclaiming disturbed land areas.

The department may require a bond payable to the State with sureties satisfactory to the department or such other security as the department may determine adequately secures compliance with this article, conditioned upon the faithful performance of the requirements set forth in this article. Other security may include a security deposit with the State, an escrow account and agreement, insurance or an irrevocable trust. In determining the amount of the bond or the security, the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of grading and reclamation required. All proceeds of forfeited bonds or other security must be

expended by the department for the reclamation of the area for which the bond was posted and any remainder returned to the operator.

The board may adopt or amend rules to carry out this subsection, including rules relating to operation or maintenance plans; standards for determining the reclamation period; annual revisions of those plans; limits, terms and conditions on bonds or other security; proof of financial responsibility of a person engaged in excavation activity or the affiliated person who guarantees performance; estimation of reclamation costs; reports on reclamation activities; or the manner of determining when the bond or other security may be discharged. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

~~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 slopes exhibit substantial vegetation and are stable. The department may not assess a fee for a request for a variance from paragraph A. The department may grant a variance from paragraph E if the applicant demonstrates that the soil is not needed for reclamation purposes. The department may not grant a variance from the other provisions of this subsection.

Sec. 25. 38 MRSA §490-E, as enacted by PL 1993, c. 350, §5, is amended to read:

§490-E. Variances

~~The owner or operator of a medium borrow-pit must comply with the performance standards in section 490-D unless a variance from those performance standards is approved by the department. Except where prohibited by section 490-D, the department may grant a variance from the performance standards in this article if the owner or operator affirmatively demonstrates to the department that the variance does not adversely affect natural resources or existing uses and does not adversely affect the health, safety and general welfare of the public. The department must use the applicable provisions of rules adopted under the site location of development laws to decide upon variances. A variance request must be mailed to the department by certified mail, return receipt requested. At the time a variance request is mailed to the department, a copy of the variance request must be sent to each abutting property owner and to the municipality in which the borrow-pit is located. A variance request application must include any fee applicable under section 490-J. The department shall process the variance application according to chapter 2 and the rules adopted by the department for processing an application. An applicant for a variance under this article shall hold a~~

public informational meeting as described in those rules.

The department shall adopt rules that set forth the standards for granting a variance from the performance standards in this article. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. Those rules must be provisionally adopted and submitted to the Legislature for review not later than January 1, 1997. Notwithstanding Title 5, section 8072, subsection 3, the Executive Director of the Legislative Council shall immediately assign those provisionally adopted rules to the joint standing committee of the Legislature having jurisdiction over natural resources matters.

A variance from performance standards may not be granted prior to March 1, 1997 unless the owner or operator requesting the variance had filed a notice of intent to comply under section 490-C prior to the effective date of this paragraph.

The department shall publish a timetable for responding to variance requests applications in the same manner prescribed in section 344-B. A variance is not valid unless approved by the department and, if a municipality is the regulator, the municipality. In making its decision on variance requests applications, the department shall consider comments or information received from abutters and the compliance record of the owner or operator. The department shall inform the owner or operator of the borrow pit of any significant concerns or issues raised by abutters.

Sec. 26. 38 MRSA §490-F, first ¶, as amended by PL 1995, c. 287, §16, is further amended to read:

Before expanding a borrow pit an excavation 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 each additional 10-acre expansion, 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 excavation'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 Excavation 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. 27. 38 MRSA §490-G, as enacted by PL 1993, c. 350, §5, is amended to read:

§490-G. Inspections

The regulator may periodically inspect a site, may examine relevant records of the owner or operator of the borrow pit and may take samples and perform tests necessary to determine compliance with the provisions of this article.

Sec. 28. 38 MRSA §490-H, sub-§1, as enacted by PL 1993, c. 350, §5, is amended to read:

1. Stop-work order. The regulator may order the owner or operator of any medium pit that is not operating in compliance with this article to cease operations until the noncompliance is corrected or until the owner or operator of that pit obtains a permit under article 6.

Sec. 29. 38 MRSA §490-H, sub-§3 is enacted to read:

3. Reclamation. If, after an opportunity for a hearing, the commissioner determines that the owner of an excavation site or the person who was engaged in the excavation activity at the excavation site has violated this article, the commissioner shall direct the department staff or contractors under the supervision of the commissioner to enter on the property and carry out the necessary reclamation. The person engaged in mining or any affiliated person who guarantees performance at the excavation site is liable for the reasonable expenses of the necessary reclamation. The commissioner may use the bond or other security to meet the reasonable expenses of reclamation.

Sec. 30. 38 MRSA §490-I, sub-§1, as enacted by PL 1993, c. 350, §5, is amended to read:

1. Relation to home rule. Nothing in this section may be construed to limit a municipality's authority under home rule to adopt ordinances regulating borrow pits, topsoil, clay or silt excavations.

Sec. 31. 38 MRSA §490-J, as enacted by PL 1993, c. 350, §5, is amended to read:

§490-J. Fees

The owner or operator of a medium borrow pit operating an excavation being operated under this article must pay the regulator:

1. Initial fee. A fee of \$250 upon filing a notice of intent to comply under section 484-A or 490-C;

2. Annual fee. By March 1st of each year, an annual fee of:

A. ~~Two~~ Three hundred and fifty dollars for ~~borrow pits that will have an excavation from which~~ 2,500 cubic yards or more of material will be extracted during that year; and

B. Fifty dollars, for all other ~~borrow pits excavations~~. To be eligible for the annual fee under this paragraph, the owner or operator must include with the payment of this fee a signed statement certifying that ~~the fewer~~ less than 2,500 cubic yards of material will be extracted during that year;

3. Variance fee. A fee of \$250 for each variance requested under section 490-E; ~~and, except for the following:~~

A. A fee of \$500 for a variance to excavate below the seasonal high water table;

B. A fee of \$500 for a variance to create an externally drained pit; and

C. A fee of \$125 for a variance to waive the topsoil salvage requirement; and

4. Notice of intent to expand. A fee of \$250 upon filing a notice of intent to expand under section 490-F.

Notwithstanding any other provision of this section, the total for all fees paid under subsections 1 and 2 for one borrow ~~pit~~, clay, topsoil or silt excavation in one calendar year may not exceed ~~\$250~~ \$350.

Payment of the annual fee under subsection 2 is no longer required after reclamation is complete as determined by the department. The department shall inspect the site before making this determination.

Sec. 32. 38 MRSA §490-K, as enacted by PL 1995, c. 287, §17, is amended to read:

§490-K. Transfer of ownership or operation

A person who purchases a ~~borrow pit~~ an excavation that ~~operates~~ is operated under a notice of intent to comply or who obtains operating authority of a ~~pit~~ an excavation 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~~ excavation 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.

Sec. 33. 38 MRSA §490-L, as enacted by PL 1995, c. 287, §17, is repealed.

Sec. 34. 38 MRSA §490-M is enacted to read:

§490-M. Erosion control requirements for clay, topsoil, or silt excavations of less than 5 acres

An excavation of less than 5 acres of land for clay, topsoil or silt must be conducted and reclaimed in accordance with the following standards.

1. Stabilization and control. Sediment may not leave the parcel or enter a protected natural resource as defined in section 480-B. Properly installed erosion control measures must be in place before the excavation begins. Vegetative cover must be established on all affected land. Topsoil must be placed, seeded and mulched within 7 days of final grading. Permanent vegetative cover is acceptable for purposes of erosion control if, within one growing season of seeding, 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 the planting of all materials in permanent 90% ground coverage.

2. Phases. The excavation must be reclaimed in phases so that the working pit does not exceed 2 acres at any one time.

Sec. 35. 38 MRSA c. 3, sub-c. I, art. 8-A is enacted to read:

Article 8-A

PERFORMANCE STANDARDS FOR QUARRIES

§490-W. Definitions

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

1. Affected land. "Affected land" means all reclaimed and unreclaimed 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 storage areas or other land, except natural buffer strips, that will be or has been used in connection with a quarry.

2. Airblast. "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.

3. Blaster. "Blaster" means a person qualified to be in charge of or responsible for the loading and firing of a blast.

4. Blasting. "Blasting" means the use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation.

5. Blast site. "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.

6. Detonating cord. "Detonating cord" means a flexible cord containing a center core of high explosives that may be used to initiate other explosives.

7. Explosive. "Explosive" means any chemical compound or other chemical substance that contains oxidizing or combustible materials used for the purpose of producing an explosion intended to break or move rock, earth or other materials.

8. Flyrock. "Flyrock" means rock that is propelled through the air or across the ground as a result of blasting and that leaves the blast area.

9. Matting. "Matting" means a covering placed over load holes and adjacent areas in order to minimize generation of flyrock and limit airblast effects.

10. Natural buffer strip. "Natural buffer strip" means an undisturbed area or belt of land that is covered with trees or other vegetation.

11. Passenger car equivalents at peak hour. "Passenger car equivalents at peak hour" means the number of passenger cars, or, in the case of nonpassenger vehicles, the number of passenger cars that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which traffic volume generated by the development is higher than the volume during any other hour of the day. For purposes of this article, one tractor-trailer combination is the equivalent of 2 passenger cars.

12. Peak particle velocity. "Peak particle velocity" means the maximum rate of ground movement measured by any of the 3 mutually perpendicular components of ground motion.

13. Preblast survey. "Preblast survey" means documentation, prior to the initiation of blasting, of the condition of buildings, structures, wells or other infrastructures; protected natural resources; historic sites; and unusual natural areas.

14. Private drinking water supply. "Private drinking water supply" means a surface water supply, a dug well, 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 public drinking water supply.

15. Production blasting. "Production blasting" means blasting conducted for the purpose of extracting or removing natural materials for commercial sale or beneficiation.

16. Public drinking water source. "Public drinking water source" 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 60 days of the year.

17. Quarry. "Quarry" means a place where rock is excavated.

18. Reclamation. "Reclamation" means the rehabilitation of the area of land affected by mining, including, but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest and the enhancement of wildlife and aquatic habitat and aquatic resources. "Reclamation" does not include the filling in of pits and the filling or sealing of shafts and underground workings with solid materials unless necessary for the protection of groundwater or for reasons of safety.

19. Regulator. "Regulator" means:

A. For a quarry located wholly within a municipality that is registered under section 490-DD to enforce this article, the municipality; and

B. For all other quarries, the Department of Environmental Protection.

20. Rock. "Rock" means a hard, nonmetallic material that requires cutting, blasting or similar methods of forced extraction.

21. Stemming. "Stemming" means inert material used in a blasthole to confine the gaseous products of detonation.

22. Surface blasting. "Surface blasting" means any blasting for which the blast area lies at the surface of the ground.

23. Underground production blasting. "Underground production blasting" means a blasting operation carried out beneath the surface of the ground by means of shafts, declines, adits or other openings leading to the natural material being mined or extracted.

§490-X. Applicability

This article applies to any quarry that is more than one acre in size, including reclaimed and unreclaimed areas, or at which underground production blasting is proposed.

This article does not apply to a quarry located wholly within the jurisdiction of the Maine Land Use Regulation Commission.

This article does not apply to an excavation or grading preliminary to a construction project, unless intended to circumvent this article.

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. Any modification of the permit must be in conformance with section 484. A person with a permit under article 6 may file a notice of intent to comply with this article. The permit issued under article 6 lapses as of the date a complete notice of intent is filed with the department. If the permittee chooses to substitute a notification pursuant to this article, all terms and conditions that applied to the permit issued pursuant to article 6 are incorporated into the notification approved pursuant to this article.

§490-Y. Notice of intent to comply

Except as provided in section 484-A, a person intending to create or operate a quarry under this article must file a notice of intent to comply before the total area of excavation of rock or overburden on the parcel exceeds one acre. Both reclaimed and unreclaimed areas are added together in determining whether this one-acre threshold is exceeded. 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 the following:

1. Name, address and telephone 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 drinking water supplies or

public drinking water sources 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 names and addresses of abutting property owners;

6. Signed statement. A statement signed and dated by the owner or operator certifying that the quarry will be operated in compliance with this article; and

7. Fees. A fee paid to the department as provided by section 490-EE.

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 the notice.

§490-Z. 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 pursuant to the Natural Areas Program, Title 5, section 13076. The department may not grant a variance from the provisions of this subsection.

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. The department may not grant a variance from the provisions of this subsection.

3. Groundwater protection. To ensure adequate groundwater protection, the following setback requirements 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 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, 42 United States Code, Sections 300f to 300j-26 (1988), the separation must be 1,000 feet.

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.

E. In the event of excavation below the seasonal high water table, a 300-foot separation must be maintained between the limit of excavation and any predevelopment private drinking water supply and a 1000-foot separation must be maintained between the limit of excavation and any public drinking water source or area previously designated for potential use as a public drinking water source by a municipality or private water company.

The department may grant a variance from the provisions of paragraph C upon consultation with the person or entity that controls the public drinking water supply affected by the excavation. The department may not grant a waiver from the provisions of paragraph A, B or D.

Excavation below the seasonal high water table of an area previously designated for potential use as a public drinking water source by a municipality or private water company is prohibited. The department may grant a variance allowing excavation below the seasonal high water table if the applicant demonstrates that the yield of groundwater flow to protected waters or wetlands or public drinking water sources or private drinking water supplies will not be adversely affected by the excavation.

In the event of excavation below the seasonal high water table, the operator of a mining activity that affects by excavation activities a public drinking water source or private drinking water supply by contamination, interruption or diminution must restore or replace the affected water supply with an alternate source of water, adequate in quantity and quality for the purpose served by the supply. This provision is not intended to replace any independent action that a person may have whose water supply is affected by a mining activity.

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 the excavation or activities related to operation of a 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. The department may not grant a variance from the provisions of this subsection.

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 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 have the characteristics listed in paragraph B. Excavation activities conducted within 100 feet of a protected natural resource must comply with the applicable permit requirements 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 a body of water other than as described in paragraph A, a river, stream or brook, coastal wetland or significant wildlife habitat contained within 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) Peat lands dominated by shrubs, sedges and sphagnum moss.

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.

The department may not grant a variance from this subsection.

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 and a private road or a right-of-way. If a private road is contained within a wider right-of-way, the buffer is measured from the edge of the 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.

The department may not grant a variance from the provisions of paragraph A or C. The department may grant a variance from paragraph B if the variance does 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 if the owner or operator installs visual screening and safety measures as required by the department.

A distance specified in this subsection is measured from the outside edge of the shoulder of the road unless otherwise specifically provided.

7. Property boundary. A natural buffer strip at least 100 feet wide must be maintained between an excavation and any 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. The natural buffer strip between quarries owned by abutting owners may be eliminated with the abutter's written permission if the elimination of this natural 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 subsection.

8. Erosion and sedimentation control. All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained at all times unless a variance is obtained from the department. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

A. Sediment may not leave the parcel or enter a protected natural resource.

B. Grubbed areas not internally drained must be stabilized.

C. Erosion and sedimentation control for access roads must be conducted in accordance with the department's best management practices for erosion and sedimentation control.

The department may not grant a variance from the provisions of paragraph A, B or C.

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. 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%.

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 an adjacent parcel of land or so that the drainageways flowing from an adjacent parcel of land to the parcel are impeded.

Structures such as detention ponds, retention ponds and undersized culverts may not be used to meet the standard in this subsection unless a variance is obtained from the department.

10. Traffic. The following provisions govern traffic.

A. 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 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. This paragraph is repealed July 1, 1997.

B. Any excavation activity that generates 100 or more passenger car equivalents at peak hour must comply with the applicable permit requirements under article 6. This paragraph takes effect July 1, 1997.

11. Noise. Noise levels may not exceed applicable noise limits in rules adopted by the board.

12. Dust. Dust generated by activities at a quarry, including dust associated with traffic to and from a 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. The department may not grant a variance from the provisions of this subsection.

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 may 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 safety benches, 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 or planting 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 of these.

C. All structures, once no longer in 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. The department may grant a variance from this paragraph if the applicant demonstrates that the soil is not needed for reclamation purposes.

F. The department may require a bond payable to the State with sureties satisfactory to the department or such other security as the department determines adequately secures compliance with this article, conditioned upon the faithful performance of the requirements set forth in this article. Other security may include a security deposit with the State, an escrow account and agreement, insurance or an irrevocable trust. In determining the amount of the bond or the security, the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of grading and reclamation required. All proceeds of forfeited bonds or other security must be expended by the department for the reclamation of the area for which the bond was posted and any remainder returned to the operator.

G. The board may adopt or amend rules to carry out this subsection, including rules relating to operational or maintenance plans; standards for determining the reclamation period; annual revisions of those plans; limits, terms and conditions on bonds or other security; proof of financial responsibility of a person engaged in excavation activity or the affiliated person who guarantees performance; estimation of reclamation costs; reports on reclamation activities; and the manner of determining when the bond or other security may be discharged.

14. Blasting. The applicant must ensure that 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. Crushed rock or other suitable material must be used for stemming when available; native gravel, drill cuttings or other material may be used for stemming only if no other suitable material is available.

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 200 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 200 hertz.

D. Monitoring of airblast levels is required in all cases for which a preblast survey is required by paragraph F. The department may waive the monitoring requirement if the owner or operator secures the permission of affected property owners to increase allowable airblast levels on their property and the department determines that no protected natural resource will be adversely affected by the increased airblast levels.

E. If a blast is to be initiated by detonating cord, the detonating cord must be covered by crushed rock or other suitable cover to reduce noise and concussion effects.

F. A preblast survey is required for all production blasting and must extend a minimum radius of 2000 feet from the blast site. The preblast survey must document any preexisting damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems must be limited to surface conditions and other readily available data, such as well yield and water quality. The preblast survey must be conducted prior to the initiation of blasting at the operation. The owner or operator shall retain a copy of all preblast surveys for at least one year from the date of the last blast on the development site.

(1) The owner or operator is not required to conduct a preblast survey if the department determines that no protected natural resource within the limits of the otherwise required survey is likely to be affected by blasting and production blasting will not occur within 2000 feet of any building not owned or under the control of the developer.

(2) The owner or operator is not required to conduct a preblast survey on properties for which the owner or operator documents the rejection of an offer by registered letter,

return receipt requested, to conduct a preblast survey. Any person owning a building within a preblast survey radius may voluntarily waive the right to a survey.

(3) The owner or operator is not required to conduct a preblast survey if the owner or operator agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation $W=(D/D_s)^2$, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and any inhabitable structure not owned or controlled by the developer and D_s equals 70 ft./lb.)^{1/2}.

G. Blasting may not occur in the period between sundown and sunrise the following day or in the period between 7:00 p.m. and 7:00 a.m., whichever is greater. Routine production blasting is not allowed in the daytime on Sunday. Detonation of misfires may occur outside of these times but must be reported to the department within 5 business days of the misfire detonation. Blasting may not occur more frequently than 4 times per day. Underground production blasting may be exempted from these requirements provided that a waiver is granted by the department.

H. Sound from blasting may not exceed the following limits at any protected location:

<u>Number of Blasts Per Day</u>	<u>Sound Level Limit</u>
<u>1</u>	<u>129 decibels</u>
<u>2</u>	<u>126 decibels</u>
<u>3</u>	<u>124 decibels</u>
<u>4</u>	<u>123 decibels</u>

I. The maximum peak particle velocity at inhabitable structures not owned or controlled by the developer may not exceed the levels established in Table 1 in paragraph K and the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1. The department may grant a variance to allow ground vibration levels greater than 2 inches per second on undeveloped property not owned or controlled by the applicant if the department determines that no protected natural resource, unusual natural area or historic site will be adversely affected by the increased ground vibration levels. If inhabitable structures are constructed on the property after approval of the development and prior to completion of blasting, the developer immediately must notify the de-

partment and modify blasting procedures to remain in compliance with the standards of this subsection.

J. Based upon an approved engineering study, the department may grant a variance to allow higher vibration levels for certain buildings and infrastructures. In reviewing a variance application, the department shall take into account that the standards in this paragraph and paragraph I are designed to protect conventional low-rise structures such as churches, homes and schools. In cases of practical difficulty, the department may grant a variance from paragraph I if it can be demonstrated that no adverse impacts on existing infrastructures or protected natural resources, unusual natural areas or historic sites will result.

K. Table 1 of this paragraph or the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 must be used to evaluate ground vibration effects for those blasts for which a preblast survey is required.

(1) Either Table 1 of this paragraph or the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 may be used to evaluate ground vibration effects when blasting is to be monitored by seismic instrumentation.

(2) Blasting measured in accordance with Table 1 of this paragraph must be conducted so that the peak particle velocity of any one of the 3 mutually perpendicular components of motion does not exceed the ground vibration limits at the distances specified in Table 1 of this paragraph.

(3) Seismic instruments that monitor blasting in accordance with Table 1 of this paragraph must have the instrument's transducer firmly coupled to the ground.

(4) An owner or operator using Table 1 of this paragraph must use the scaled-distance equation, $W=(D/D_s)^2$, to determine the allowable charge weight of explosives to be detonated in any 8 millisecond or greater delay period without seismic monitoring, where W is equal to the maximum weight of explosives, in pounds, and D and D_s are defined as in Table 1 of this paragraph. The department may authorize use of a modified scaled-distance factor for production blasting if the owner or operator

can demonstrate to a 95% confidence level, based upon records of seismographic monitoring at the specific site of the mining activity covered by the permit, that use of the modified scaled-distance factor will not cause the ground vibration to exceed the maximum allowable peak particle velocities of Table 1 of this paragraph.

(5) Blasting monitored in accordance with the graph published by the United States Department of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1 must be conducted so that the continuously variable particle velocity criteria are not exceeded.

The owner or operator may apply for a variance of the ground vibration monitoring requirement prior to conducting blasting at the development site if the owner or operator agrees to design all blasts so that the weight of explosives per 8 millisecond or greater delay does not exceed that determined by the equation $W=(D/D_s)^2$, where W is the maximum allowable weight of explosives per delay of 8 milliseconds or greater, D is the shortest distance between any area to be blasted and any inhabitable structure not owned or controlled by the developer and D_s equals 70 ft./lb.^{1/2}. As a condition of the variance, the department may require submission of records certified as accurate by the blaster and may require the owner or operator to document compliance with the conditions of this paragraph.

The following is Table 1.

Distance versus Peak Particle Velocity Method

<u>Distance (D)</u> <u>from the blast</u> <u>area (feet)</u>	<u>Maximum</u> <u>allowable</u> <u>peak particle</u> <u>velocity</u> <u>(Vmax) for</u> <u>ground</u> <u>vibration</u> <u>(in./sec.)</u>	<u>Scaled-</u> <u>distance</u> <u>factor (Ds) to</u> <u>be applied</u> <u>without</u> <u>seismic</u> <u>monitoring</u>
0 to 300	1.25	50
301-5000	1.00	55
Greater than 5000	0.75	65

L. A record of each blast, including seismographic data, must be kept for at least one year from the date of the last blast, must be available for inspection at the development or at the offices of the owner or operator if the development has been closed, completed or abandoned before the one-year limit has passed

and must contain at a minimum the following data:

- (1) Name of blasting company or blasting contractor;
- (2) Location, date and time of blast;
- (3) Name, signature and social security number of blaster;
- (4) Type of material blasted;
- (5) Number and spacing of holes and depth of burden or stemming;
- (6) Diameter and depth of holes;
- (7) Type of explosives used;
- (8) Total amount of explosives used;
- (9) Maximum amount of explosives used per delay period of 8 milliseconds or greater;
- (10) Maximum number of holes per delay period of 8 milliseconds or greater;
- (11) Method of firing and type of circuit;
- (12) Direction and distance in feet to the nearest dwelling, public building, school, church or commercial or institutional building neither owned nor controlled by the developer;
- (13) Weather conditions, including factors such as wind direction and cloud cover;
- (14) Height or length of stemming;
- (15) Amount of mats or other protection used;
- (16) Type of detonators used and delay periods used;
- (17) The exact location of each seismograph and the distance of each seismograph from the blast;
- (18) Seismographic readings;
- (19) Name and signature of the person operating each seismograph; and
- (20) Names of the person and the firm analyzing the seismographic data.

M. All field seismographs must record the full analog wave form of each of the 3 mutually perpendicular components of motion in terms of particle velocity. All seismographs must be ca-

pable of sensor check and must be calibrated according to the manufacturer's recommendations.

§490-AA. Inspections

The department may periodically inspect a site, examine relevant records of the owner or operator of a quarry, take samples and perform tests necessary to determine compliance with the provisions of this article.

§490-BB. 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.

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.

3. Reclamation. If, after an opportunity for a hearing, the commissioner determines that the owner of an excavation site or the person who was engaged in the excavation activity at the excavation site has violated this article, the commissioner shall direct the department staff or contractors under the supervision of the commissioner to enter on the property and carry out the necessary reclamation. The person engaged in mining or any affiliated person who guarantees performance at the excavation site is liable for the reasonable expenses of this necessary reclamation. The commissioner may use the bond or other security paid under section 490-Z, subsection 13, paragraph F to meet the reasonable expenses of reclamation.

§490-CC. Variances

An owner or operator must comply with the performance standards in section 490-Z unless a variance from those performance standards is approved by the department. Except when prohibited by section 490-Z, the department may grant a variance from the performance standards in this article if the owner or operator affirmatively demonstrates to the department that the variance does not adversely affect natural resources or existing uses and does not adversely affect the health, safety and general welfare of the public. A variance application must include any fee applicable under section 490-EE. The department shall process the variance application according to chapter 2 and the rules adopted by the department for processing an application. An applicant for a variance under this article shall hold a public informational meeting as described in those rules.

The department shall publish a timetable for responding to variance applications in the same manner prescribed in section 344-B. A variance is not valid unless approved by the department and, if a municipality is the regulator, the municipality. In making its decision on a variance application, the department shall consider comments or information received and the compliance record of the owner or operator. The department shall inform the owner or operator of any significant concerns or issues raised.

§490-DD. Municipal enforcement; registration

A municipality may register for authority to enforce this article by adopting and submitting to the commissioner an ordinance that meets or exceeds the provisions of this article. The commissioner shall review that ordinance to determine whether that ordinance meets the provisions of this article and if the municipality has adequate resources to enforce the provisions of this article. If the commissioner determines that the ordinance meets the provisions of this article and that the municipality has the resources to enforce this article, the commissioner shall register that municipality for authority to enforce this article. Immediately upon approval by the commissioner, primary enforcement authority for this article vests in that municipality. The commissioner may not approve an ordinance under this section unless the ordinance requires that any request for a variance from the standards in the article be approved by the commissioner before the variance is valid.

1. Relation to home rule. This section may not be construed to limit a municipality's authority under home rule to adopt ordinances regulating quarries.

2. Optional participation. This article may not be construed to require a municipality to adopt any ordinance.

3. Suspension of approval. The commissioner may act to enforce any provision of this article or suspend the registration of a municipality if the commissioner determines that a municipal ordinance no longer conforms to the provisions of this article or that the municipality is not adequately enforcing this article. The commissioner shall notify a municipality of any such determination in writing. Suspension of municipal registration by the commissioner does not void or in any way affect a municipal ordinance or in any way limit the municipality's authority to enforce the provisions of its ordinance.

4. Appeal. A municipality may appeal to the board any decision of the commissioner under this section. Any decision by the board on appeal by a municipality constitutes final agency action.

§490-EE. Transfer of ownership or operation; review before expansion; fees

1. Review before expansion. Before expanding a quarry beyond an area that exceeds a total of 10 acres of reclaimed and unreclaimed land and before each additional 10-acre expansion, the owner or operator shall notify the regulator of the owner's or operator's 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 quarry'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. Excavation activities 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 a sufficient basis for a stop-work order under section 490-BB, subsection 1.

At the time of filing a notification of intent to expand, the owner or operator shall pay any fee required by this section.

2. Transfer of ownership or operation. A person who purchases a quarry that is operated under a notice of intent to comply, as established under section 490-Y, or who obtains operating authority of a quarry 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 quarry during this 2-week period without having filed a notice of intent to comply if the new owner or operator complies with all standards of this article.

3. Fees. The owner or operator of a quarry shall pay the regulator:

A. An initial fee of \$250 upon filing a notice of intent to comply under section 490-Y;

B. By March 1st of each year, an annual fee of:

(1) Three hundred fifty dollars for an excavation from which 2,500 cubic yards or more of material will be extracted during that year; and

(2) Fifty dollars for all other excavations. To be eligible for the annual fee under this paragraph, the owner or operator must include with the payment of this fee a signed statement certifying that less than 2,500

cubic yards of material will be extracted during that year;

C. A fee of \$250 for each variance requested under section 490-CC, except for the following:

(1) A fee of \$500 for a variance to excavate below the seasonal high water table;

(2) A fee of \$500 for a variance to create an externally drained quarry;

(3) A fee of \$125 for a variance to waive the topsoil salvage requirement;

(4) A fee of \$125 for a variance to waive the monitoring requirements for airblasts and ground vibration; and

(5) A fee of \$250 upon filing a notice of intent to expand under section 490-EE; and

D. A fee of \$250 upon filing a notice of intent to expand under this section.

Notwithstanding any other provision of this subsection, the total for all fees paid under paragraphs A and B for one quarry in one calendar year may not exceed \$350.

Sec. 36. Transition provisions. A peat mine licensed pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 6 prior to the effective date of this Act is also considered licensed pursuant to Title 38, chapter 3, subchapter I, article 5-A, as of the effective date of this Act.

See title page for effective date.

CHAPTER 701

H.P. 1379 - L.D. 1887

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 officers; 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, ¶¶A to D, as repealed and replaced by PL 1995, c. 500, §1 and affected by §2, are repealed and the following enacted in their place:

	1995	1996
<u>A. Androscoggin County:</u>		
<u>(1) Commissioners</u>		
<u>(a) Chair</u>	<u>\$6,536</u>	<u>\$6,536</u>
<u>(b) Members</u>	<u>5,595</u>	<u>5,595</u>
<u>(2) Treasurer</u>	<u>21,007</u>	<u>21,007</u>
<u>(3) Sheriff</u>	<u>30,955</u>	<u>30,955</u>
<u>(4) Judge of Probate</u>	<u>12,689</u>	<u>12,689</u>
<u>(5) Register of Probate</u>	<u>10,712</u>	<u>10,712</u>
<u>(6) Register of Deeds</u>	<u>27,495</u>	<u>27,495</u>

B. Kennebec County:

<u>(1) Commissioners</u>		
<u>(a) Chair</u>	<u>\$7,438</u>	<u>\$7,662</u>
<u>(b) Members</u>	<u>7,014</u>	<u>7,225</u>
<u>(2) Treasurer</u>	<u>9,452</u>	<u>9,452</u>
<u>(3) Sheriff</u>	<u>35,906</u>	<u>37,701</u>
<u>(4) Judge of Probate</u>	<u>18,210</u>	<u>19,302</u>
<u>(5) Register of Probate</u>	<u>23,951</u>	<u>25,388</u>
<u>(6) Register of Deeds</u>	<u>25,066</u>	<u>26,500</u>

C. Penobscot County:

(1) Commissioners

(a) Chair	\$8,752	\$8,752
(b) Members	8,353	8,353
(2) Treasurer	3,963	6,527
(3) Sheriff	40,111	40,111
(4) Judge of Probate	23,412	23,412
(5) Register of Probate	23,999	23,999
(6) Register of Deeds	22,146	23,999

D. Piscataquis County:

(1) Commissioners		
(a) Chair	\$6,395	\$6,587
(b) Members	5,513	5,679
(2) Treasurer	7,277	7,495
(3) Sheriff	30,870	31,796
(4) Judge of Probate	15,242	15,700
(5) Register of Probate	17,958	18,497
(6) Register of Deeds	19,845	20,441

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.

Effective April 11, 1996.

CHAPTER 702

H.P. 1380 - L.D. 1888

An Act Regarding the Maine Potato Board

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

Whereas, Public Law 1995, chapter 502 established the Maine Potato Board as an incorporated public instrumentality of the State effective March 1, 1996; and

Whereas, the timing of the transition of the Maine Potato Board from an agency of the State to an independent agency has a potentially detrimental

impact on the application of retirement benefits to the Maine Potato Board's employees; and

Whereas, there is a compelling need to clarify the retirement status of the Maine Potato Board's employees and have that clarification apply from March 1, 1996 onward; 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 §4603, sub-§12 is enacted to read:

12. State employees for certain purposes. Notwithstanding subsection 9, employees of the board, including employees hired after the effective date of this section, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II.

Sec. 2. 36 MRSA §4606, first ¶, as amended by PL 1995, c. 502, Pt. C, §18, is further amended to read:

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be transferred to the board in its capacity as an independent agency on a monthly basis and used for all activities of the board authorized under this chapter. The board shall pay a sum to the State Tax Assessor representing the cost incurred by the State in collecting the taxes. Notwithstanding section 4603, subsection 1, money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be allocated or appropriated to the board by the Legislature.

Sec. 3. PL 1995, c. 502, Pt. C, §20, sub-§3 is repealed and the following enacted in its place:

3. Personnel; retirement; health insurance; accrued benefits. Employees of the Maine Potato Board must be transferred from state employment to the Maine Potato Board in its capacity as an independent agency.

A. Employees of the Maine Potato Board continue to be treated as state employees for purposes of rights and benefits under the Maine State Retirement System. The retirement accounts of employees transferred to the board in

its capacity as an independent agency must remain in the state regular plan. New employees also become members of the Maine State Retirement System under the state regular plan. The board shall make employer retirement plan contributions at the state regular plan rate. Employee retirement plan contributions must be at the state regular plan rate.

B. Employees of the Maine Potato Board continue to be treated as state employees for the purposes of the state employee health insurance program. Board employees are entitled to receive the same retirement health benefits as state employees.

C. The accrued fringe benefits of employees transferred to the Maine Potato Board in its capacity as an independent agency, including vacation and sick leave, health and life insurance and retirement, remain with the transferred employee.

Sec. 4. Retroactivity. This Act applies retroactively to March 1, 1996.

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

Effective April 11, 1996.

CHAPTER 703

H.P. 1377 - L.D. 1885

An Act Regarding the State Government Computer System

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

Whereas, the Legislature must immediately change the statutory guidelines concerning the use of the state government computer system and remove inconsistencies in the 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 §1890-B, as amended by PL 1991, c. 340, is repealed and the following enacted in its place:

§1890-B. Misuse of State Government computer system

1. Violation. A person is guilty of misuse of a State Government computer system if that person knowingly uses a computer system operated by a state department or agency, the Judicial Department or the Legislature:

A. To prepare materials with the intent to expressly advocate, to those eligible to vote, for the election or defeat of any candidate for a federal office, a constitutional office, or any candidate for elective municipal, county or state office, including leadership positions in the Senate and the House of Representatives; or

B. With the intent to solicit contributions reportable under Title 21-A, chapter 13.

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

A. "Computer system" has the same meaning as in Title 17-A, section 431.

B. "Leadership positions" includes the presiding officers of each House, party leaders, the Clerk of the House and Assistant Clerk of the House and the Secretary of the Senate and the Assistant Secretary of the Senate.

2. Penalty. Misuse of a State Government computer system is a Class C crime.

4. Confidentiality. Computer programs, technical data, logic diagrams and source code related to data processing or telecommunications are confidential and are not public records as defined in Title 1, section 402, subsection 3 to the extent of the identified trade secrets. To qualify for confidentiality under this subsection, computer programs, technical data, logic diagrams and source code must:

A. Contain trade secrets as defined in Title 10, section 1542, subsection 4 held in private ownership; and

B. Have been provided to a state agency by an authorized independent vendor or contractor under an agreement by which:

(1) All trade secrets that can be protected are identified without disclosing the secret;

(2) The vendor or contractor retains all intellectual property rights in those trade secrets; and

(3) The state agency agrees to hold and use the programs, data, diagrams or source code without disclosing any identified trade secrets.

5. Public records. Except as provided in subsection 4, any document created or stored on a State Government computer is a public record and must be made available in accordance with Title 1, chapter 13 unless specifically exempted by that chapter.

Sec. 2. Application. This Act applies to employees of the executive, the judicial or the legislative branch on or after the effective date of this Act.

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

Effective April 11, 1996.

CHAPTER 704

H.P. 1352 - L.D. 1853

An Act to Reorganize and Redirect Aspects of the Site Location of Development Laws

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

PART A

Sec. A-1. 38 MRSA §352, Table I, as amended by PL 1995, c. 493, §1, is further amended 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	\$250	\$20

facilities		
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)		
1. Discharge of cooling water or sanitary wastewater only	4,800	3,000
2. All others	4,800	8,800
E. Publicly owned treatment works		
1. Flow of less than or equal to 50,000 gallons per day and no significant industrial component	100	400
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
3. Flow of at least 0.5 million gallons per day, but less than 5 million	100	3,600

gallons per day and no significant industrial component			or emissions standards variances		
4. Flow of at least 300	5,400		590, Air emissions licenses	See section 353-A	
5 million gallons per day or a significant industrial component			633, Hydropower projects		
F. Special discharges			A. New or expanded generating capacity	450/MW	50/MW
1. Aquatic pesticides	130	75	B. Maintenance and repair or other structural alterations	150	50
2. Dredge spoils	130	75	not involving an increase in generating capacity		
418, Log storage	55	25	1101, Sanitary districts	150	50
451, Mixing zones	1,200	2,200	33 United States Code, Chapter 26, Water Quality Certifications, in conjunction with applications for hydropower project licensing or relicensing		
451-A, Time schedule	25	25	A. Initial consultation	1,000	0
variances			B. Second consultation	1,000	0
480-E, Natural resources protection			C. Application		
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	1. Storage	1,000	0
B. Any alteration of a coastal wetland causing less than 20,000 square feet of alteration of the resource	240	60	2. Generating	300/MW	50/MW
C. Any alteration of a .015/sq. ft. protected natural alteration resource, except coastal sand dunes, causing 20,000 square feet or more of alteration of the resource		005/sq. ft. alteration	1304, Waste management		
D. Any alteration of a coastal sand dune	3,500	1,500	A. Septage disposal		
E. Condition compliance	84	0	1. Site designation	50	25
F. Minor modification	184	0	B. Land application of sludges and residuals program approval		
485-A, Site location of development			1. Industrial sludge	400	400
A. Residential subdivisions			2. Municipal sludge	300	275
1. Affordable housing	50/lot	50/lot	3. Bioash	300	275
2. On public water and sewers	175/lot	175/lot	4. Wood ash	300	75
3. All Other	250/lot	250/lot	5. Food waste	300	75
B. Industrial parks	460/lot	460/lot	6. Other residuals	300	175
C. Mining	1,500	1,000	C. Landfill		
D. Structures	4,000	2,000	1. Closing plans for nonmunicipal landfills	1,500	1,500
<u>D-1. Traffic</u>			2. Closing plans for municipal landfills	500	500
<u>Scoping meeting</u>			3. Variance requests for attenuation land- fills	175	175
<u>with no further review</u>	<u>500</u>	<u>0</u>	4. Preliminary information reports	175	175
<u>Scoping meeting with</u>			5. License transfers	500	175
<u>further review</u>	<u>500</u>	<u>1,500</u>	6. Special waste disposal		
<u>"Scoping meeting" refers</u>			a. One-time disposal of quantities of 6 cubic yards or less	50	50
<u>to the process described</u>			b. One-time disposal of quantities greater than 6 cubic yards	100	100
<u>in section 484, subsection</u>			c. Program approval for	300	300
<u>2, paragraph B</u>					
E. Other	1,000	1,000			
543, Oily waste discharge	40	160			
560, Vessels at anchorage	125	100			
587, Ambient air quality	5,050	50			

	routine disposal of a special waste		
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. A-2. 38 MRSA §481, 5th ¶ is enacted to read:

The Legislature further finds that the development, maintenance and preservation of safe, efficient and environmentally sound transportation systems are vital to the protection of the economic, physical and social well-being of the citizens of the State; that preservation and enhancement of the service capabilities of the existing transportation infrastructure are important public functions in furtherance of these goals; that the location of developments can have significant environmental, operational, safety and fiscal impacts upon the transportation infrastructure; that the expertise to evaluate and regulate transportation impacts primarily resides within the Department of Transportation; and that the transfer of responsibilities for the evaluation and regulation of the impacts of the location of development upon the transportation infrastructure from the Department of Environmental Protection to the Department of Transportation may benefit the citizens of the State by creating a more efficient and simpler regulatory system, provided that this system offers an applicant under section 485-A the option of a consolidated permit process in which an application requires approval from both agencies.

Sec. A-3. 38 MRSA §482, sub-§2, as repealed and replaced by PL 1993, c. 680, Pt. C, §7, is amended to read:

2. Development of state or regional significance that may substantially affect the environment. "Development of state or regional significance that may substantially affect the environment," in this article also called "development," means any federal, state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development that:

- A. Occupies a land or water area in excess of 20 acres;
- B. Contemplates drilling for or excavating natural resources on land or under water where the area affected is in excess of 60,000 square feet;
- C. Is a mining or advanced exploration activity as defined in this section;
- D. Is a structure as defined in this section; ~~or~~

E. Is a subdivision as defined in this section; ~~or~~

I. Generates 100 or more passenger car equivalents at peak hour.

"Development" does not include borrow pits regulated under article 7.

Sec. A-4. 38 MRSA §482, sub-§3-C is enacted to read:

3-C. Passenger car equivalents at peak hour.

"Passenger car equivalents at peak hour" means the number of passenger cars, or, in the case of nonpassenger vehicles, the number of passenger cars that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which the traffic volume generated by the development is higher than the volume during any other hour of the day. For purposes of this article, one tractor-trailer combination is the equivalent of 2 passenger cars.

Sec. A-5. 38 MRSA §482, sub-§5, as amended by PL 1995, c. 493, §5, is further amended by repealing and replacing the first paragraph to read:

5. Subdivision. A "subdivision" is the division of a parcel of land into 5 or more lots, other than lots for single-family, detached, residential housing, common areas or open space, to be offered for sale or lease to the general public during any 5-year period, if the aggregate land area includes more than 20 acres; or the division of a parcel of land into 15 or more lots for single-family, detached, residential housing, common areas or open space, to be offered for sale or lease to the general public within any 5-year period, if the aggregate land area includes more than 30 acres. The aggregate land area includes lots to be offered together with the roads, common areas, easement areas and all portions of the parcel of land in which rights or interests, whether express or implied, are to be offered. This definition of "subdivision" is subject to the following exceptions:

Sec. A-6. 38 MRSA §482, sub-§7, as enacted by PL 1991, c. 160, §1, is repealed.

Sec. A-7. 38 MRSA §483-A, as amended by PL 1993, c. 383, §20 and affected by §42, is further amended to read:

§483-A. Prohibition

~~No~~ A person may not construct or cause to be constructed or operate or cause to be operated or, in the case of a subdivision, sell or lease, offer for sale or lease or cause to be sold or leased; any development of state or regional significance that may substantially affect the environment without first having obtained

approval for this construction, operation, lease or sale from the department. A person having an interest in, or undertaking an activity on, a parcel of land affected by an order or permit issued by the department may not act contrary to that order or permit.

Sec. A-8. 38 MRSA §484, first ¶, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §89, is further amended to read:

The department shall approve a development proposal whenever it finds ~~that~~ the following.

Sec. A-9. 38 MRSA §484, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §90, is further amended to read:

2. Traffic movement. ~~The~~ For any development that generates 100 or more passenger car equivalents at peak hour, the developer has made adequate provision for traffic movement of all types into, and out of ~~or within~~ the development area. ~~The department shall consider traffic movement both on-site and off-site.~~ Before issuing a permit, the department shall determine that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development. The Department of Transportation shall provide the department with an analysis of traffic movement of all types into, and out of ~~or within~~ the development area and with a statement of recommended findings on traffic issues. In making its determination under this subsection, the department shall consider the analysis and recommendations provided by the Department of Transportation. Traffic movement determinations are subject to the following.

A. A proposed development that involves fewer than 100 passenger car equivalents at peak hour is not subject to traffic review.

B. Notwithstanding any other provision of this article, the review of any proposed development that requires approval under this article solely because it is a development that generates 100 or more passenger car equivalents at peak hour is limited only to issues relevant to the traffic movement standard in this section. The additional provisions in this paragraph apply only to section 485-A permits for a proposed development that generates 100 to 200 passenger car equivalents at peak hour and is subject to the limited scope of review provided in this subsection.

If an application is subject to review by the department, the department, together with the Department of Transportation and the appropriate representative of the municipality or municipalities where the project is located, shall discuss

with the applicant the scope of impact evaluation required for the proposed development and the type of proceedings warranted. The applicant shall provide notice to abutting municipalities. The Department of Transportation shall make the final determination on the appropriate scope of evaluation and information required. If the Department of Transportation determines as a result of these communications that the applicant has demonstrated that the proposed development satisfies minimum performance standards adopted for developments that generate 100 to 200 passenger car equivalents at peak hour and the Department of Transportation determines that there are no other significant traffic-related issues presented, the department may issue a permit to the applicant without further proceedings.

C. If a development is located in an area designated as a growth area in a local growth management plan that has been found by the State to be consistent with the growth management program in Title 30-A, chapter 187, the department shall require improvements to the level of traffic service only if the level of service adjacent to or in the vicinity of the development is or would be level of service E or F, as determined by the Department of Transportation in accordance with the "Highway Capacity Manual" (3rd ed. 1994). In these cases, improvements are limited only to those necessary to mitigate for the foreseeable impacts of the development.

Sec. A-10. 38 MRSA §484, sub-§4, as repealed and replaced by PL 1987, c. 812, §§10 and 18, is amended to read:

4. Soil types. The proposed development will be built on soil types ~~which~~ that are suitable to the nature of the undertaking ~~and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil.~~

Sec. A-11. 38 MRSA §484, sub-§4-A is enacted to read:

4-A. Storm water management and erosion and sedimentation control. The proposed development meets the standards for storm water management in section 420-D and the standard for erosion and sedimentation control in section 420-C. For purposes of review of metallic mineral mining or advanced exploration, these standards apply in all areas of the State. If a permit is issued pursuant to this article, a permit is not required pursuant to section 420-D. If exempt from section 420-D, a proposed development must satisfy the applicable storm water quantity standard and, if the development is located in the direct watershed of a lake included in the list adopted

pursuant to section 420-D, subsection 3, any applicable storm water quality rules adopted pursuant to section 420-D.

Sec. A-12. 38 MRSA §485-A, sub-§§1-B and 1-C is enacted to read:

1-B. Advance ruling. Any person intending to construct or operate a development may, before filing a complete application for the development, seek an advance ruling from the department as to whether the development meets requirements for approval under provisions relating to traffic. A request for an advance ruling must be filed with the commissioner, together with other information as the department may require. The department shall issue an advance ruling no later than 45 days after the submission of all information required by the department. An advance ruling issued under this subsection is valid for 2 years and is binding upon the department at the time that it acts upon the application for the development unless there is a material change in the development that affects the subject matter of the advance ruling, or unless the commissioner or the board determines that there is substantial new information on the subject matter that requires reconsideration of the advance ruling.

1-C. Approval of future development sites. The department shall adopt rules allowing the option of, and identifying requirements for, a planning permit that allows approval of development within a specified area and within specified parameters such as maximum area, groundwater usage and traffic generation, although the specific nature and extent of the development or timing of construction may not be known at the time the permit is issued. The location and parameters of the development must meet the standards of this article. This alternative is not available for metallic mineral mining or advanced exploration activities. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. A-13. 38 MRSA §487-A, sub-§2, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §96, is further amended to read:

2. Power generating facilities. In case of a permanently installed power generating facility of more than 1,000 kilowatts or a transmission line carrying ~~400~~ 120 kilovolts, or more, proposed to be erected within this State by an electric utility or utilities, the proposed development, in addition to meeting the requirements of section 484, must also have been approved by the Public Utilities Commission under Title 35-A, section 3132.

In the event that an electric utility or utilities file a notification pursuant to section 485-A before they are issued a certificate of public convenience and necessity by the Public Utilities Commission, they

shall file a bond or, in lieu of that bond, satisfactory evidence of financial capacity to make that reimbursement with the department, payable to the department, in a sum satisfactory to the commissioner and in an amount not to exceed \$50,000. This bond or evidence of financial capacity must be conditioned to require the applicant to reimburse the department for its cost incurred in processing any application in the event that the applicant does not receive a certificate of public convenience and necessity.

Sec. A-14. 38 MRSA §487-A, sub-§3, as enacted by PL 1987, c. 812, §§13 and 18, is amended to read:

3. Easement required; transmission line or gas pipeline. In the case of a gas pipeline or a transmission line carrying ~~400~~ 120 kilovolts or more, a permit under this chapter may be obtained prior to any acquisition of lands or easements to be acquired by purchase. The permit ~~shall~~ must be obtained prior to any acquisition of land by eminent domain.

Sec. A-15. 38 MRSA §488, first ¶, as amended by PL 1993, c. 383, §26 and affected by §42, is further amended to read:

This ~~Article~~ article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying ~~400~~ 120 kilovolts or more, nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way.

Sec. A-16. 38 MRSA §488, sub-§3, as amended by PL 1993, c. 383, §26 and affected by §42, is repealed.

Sec. A-17. 38 MRSA §488, sub-§5, as amended by PL 1993, c. 383, §26 and affected by §42, is further amended to read:

5. Subdivision exemptions. The following ~~developments are~~ development is exempt from this article:

B. A development that consists only of a subdivision if:

(1) The average density of the subdivision is not higher than one lot for every 5 acres of developable land in the parcel;

(2) ~~The developable land in the parcel totals 200 acres or less and at~~ At least 50% of the developable land in the parcel is preserved in perpetuity through conservation easements pursuant to Title 33, chapter 7, subchapter VIII-A, in ~~units common areas~~ no smaller than 10 acres in size and of dimensions that accommodate within each ~~unit common area~~ boundary a rectangle measuring 250 feet by 500 feet;

(3) The conservation easements preserve the land in an essentially undeveloped natural state including the preservation of farmland having a history of agricultural use and the preservation of forest land for harvesting by uneven-aged selection methods designed to retain the natural character of the area, except that other methods of harvesting are permissible following a natural disaster;

(4) The conservation easements grant a 3rd-party right of enforcement, as defined in Title 33, section 476, to the department. The conservation easements granting a 3rd-party right of enforcement must be submitted to and accepted by the commissioner;

(5) All significant wildlife habitat that is mapped or that qualifies for mapping under section 480-B, subsection 10 is included in the preserved land area under subparagraph (3);

(6) No clearing, grading, filling or other development activity occurs on sustained slopes in excess of 30%;

(7) If the developable land in the parcel not subject to the requirements of subparagraphs (3) and (5) is located wholly or in part in the watershed of any lake or pond classified GPA under section 465-A, long-term measures to control phosphorus transport are taken in accordance with a phosphorus control plan that is consistent with standards for phosphorus control adopted by the board;

(8) Soil erosion and sedimentation during development of the subdivision are controlled in accordance with a plan approved by the municipality in which the subdivision is located or by the soil and water conservation district for the county in which the subdivision is located;

(9) The nonpreserved, developable land in the parcel is not located wholly or partly

within the shoreland zone of a lake or pond classified GPA under section 465-A; and

(10) At the time all necessary conservation easements are filed with the department and at least 30 days prior to the commencement of clearing and construction activity, the person creating the subdivision notifies the commissioner in writing on a form supplied by the commissioner that the exemption afforded by this paragraph is being used. The person creating the subdivision shall file with that form a set of site plans, including the plans required under subparagraphs (7) and (8), and other evidence sufficient to demonstrate that the requirements of this paragraph have been met. The commissioner shall forward a copy of the form to the municipality in which the subdivision is located.

For purposes of this paragraph, "developable land in the parcel" means all contiguous land in the same ownership except for coastal wetlands, freshwater wetlands, rivers, streams and brooks as defined in section 480-B and except for any surface water classified GPA under section 465-A;

~~C. A development consisting only of a residential subdivision of fewer than 30 lots if:~~

~~(1) The lots are served by a municipal sewer system;~~

~~(2) The parcel is located within a municipality having a comprehensive plan and land use ordinances that the Department of Economic and Community Development has determined are consistent with Title 30 A, sections 4312 to 4349; and~~

~~(3) All lots are restricted to residential or open space use, except that 10 years after a residence is established on a lot, that lot may be converted to a nonresidential use by a lot buyer if allowed under municipal ordinances; and~~

~~D. Effective November 1, 1993, a development consisting only of a residential subdivision of 15 or fewer lots if:~~

~~(1) The parcel is located within a municipality having a comprehensive plan and land use ordinances that the Department of Economic and Community Development has determined are consistent with Title 30 A, sections 4312 to 4349;~~

~~(2) The department has determined that the municipal land use ordinances referred to in subparagraph (1) provide standards for groundwater protection that are at least as stringent as groundwater protection standards contained in rules adopted under this article and the municipality has provided evidence of technical capability as specified in the rule; and~~

~~(3) All lots are restricted to residential or open space use, except that 10 years after a residence is established on a lot, that lot may be converted to a nonresidential use by a lot buyer if allowed under municipal ordinances.~~

~~A lot in a residential subdivision exempted pursuant to paragraph C or D is no longer counted toward the 30 lot threshold in paragraph C or the 15 lot threshold in paragraph D for purposes of determining jurisdiction more than 5 years after the time a municipal subdivision plan showing the lot is recorded or the lot is sold or leased, whichever occurs first. A residential subdivision is a division of a parcel in which all lots are used for single family housing or open space.~~

Sec. A-18. 38 MRSA §488, sub-§8, as amended by PL 1993, c. 383, §26 and affected by §42, is repealed.

Sec. A-19. 38 MRSA §488, sub-§14, as amended by PL 1995, c. 462, Pt. A, §75, is further 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~~ State Planning Office 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~~ State Planning Office affirming that the location of the proposed devel-

opment 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~~ storm water runoff caused by the development.

Sec. A-20. 38 MRSA §488, sub-§§19 and 20 are enacted to read:

19. Municipal capacity. A structure, as defined in section 482, subsection 6, that is from 3 acres up to and including 7 acres or a subdivision, as defined in section 482, subsection 5, that is made up of 15 or more lots for single-family, detached, residential housing, common areas or open space with an aggregate area of from 30 acres up to and including 100 acres is exempt from review under this article if located wholly within a municipality or municipalities having delegated review pursuant to section 489-A or meeting the criteria in paragraphs A to C as determined by the department. The planning board of the municipality in which the development is located or an adjacent municipality may petition the commissioner to review such a structure or subdivision if it has regional environmental impacts. This petition must be filed within 20 days of the receipt of the application by the municipality. State jurisdiction must be exerted, if at all, within 30 days of receipt of the completed project application by the commissioner from the municipality or within 30 days of receipt of any modification to that application from the municipality. Review by the department is limited to the identified regional environmental impacts. The criteria are as follows:

A. A municipal planning board or reviewing authority is established and the municipality has adequate resources to administer and enforce the provisions of its ordinances. In determining whether this criterion is met, the commissioner may consider any specific and adequate technical assistance that is provided by a regional council;

B. The municipality has adopted a site plan review ordinance. In determining the adequacy of the ordinance, the commissioner may consider model site plan review ordinances commonly used by municipalities in this State that address the issues reviewed under applicable provisions of this article prior to July 1, 1997; and

C. The municipality has adopted subdivision regulations. In determining the adequacy of these regulations, the commissioner may consider model subdivision regulations commonly used by municipalities in this State.

The department, in consultation with the State Planning Office, shall publish a list of those municipalities determined to have capacity pursuant to this subsection. This list need not be established by rule and must be published by January 1, 1997. If the

department fails to publish the list by January 1, 1997, municipalities with a site plan or subdivision ordinances or regulations are deemed to have capacity for corresponding projects until January 1, 1998, or until the list is published, whichever period is longer. The list must specify whether a municipality has capacity to review structures or subdivisions of lots for single-family, detached, residential housing, common areas or open space or both types of development. The department may recognize joint arrangements among municipalities and regional organizations in determining whether the requirements of this subsection are met. On and after January 1, 2003, the department shall irrebuttably presume and publish that each municipality with a population of 2,500 or more, as measured by the United States Census of the year 2000, has capacity as provided in this subsection.

20. Modifications in permitted subdivisions. Review is not required under this article in the following instances:

A. When the owner of a single lot in a subdivision with a permit under this article conveys a right of access to adjacent land that was not part of the permitted subdivision, if the right-of-way is not contrary to the terms of the subdivision permit and the right-of-way is not more than 50 feet long;

B. When 2 lot owners in a subdivision with a permit under this article convey reciprocal easements for the purpose of constructing a common driveway in place of 2 separate driveways, if the single driveway reduces the total amount of impervious area in the affected subwatershed; or

C. When a lot owner in a permitted subdivision seeks to relocate the proposed septic field that had been designated by the permit holder, if the septic field is no closer to the down-gradient property boundary and the relocation is approved by the required local and state agencies, such as the plumbing inspector and the Department of Human Services, Division of Health Engineering.

Sec. A-21. 38 MRSA §489-A, sub-§1, as amended by PL 1993, c. 383, §27 and affected by §42, is further amended to read:

1. Kinds of projects. The following kinds of projects may be reviewed by registered municipalities pursuant to this section:

A. Subdivisions as described in section 482, subsection 5 of more than 20 acres but less than 100 acres;

~~D. Structures as described in section 482, subsection 6, paragraph B in excess of 3 acres but less than 7 acres; or~~

F. Excavation on more than 5 acres of land for borrow, topsoil, clay or silt, whether alone or in combination as described in section 482, subsection 2-B; or

G. A project generating 100 to 200 passenger car equivalents at peak hour.

Sec. A-22. 38 MRSA §489-D is enacted to read:

§489-D. Technical assistance to municipalities

A state department or agency shall provide technical assistance to a municipality in the form of a peer review of development studies when the state capacity and resources exist.

1. Costs. A state department or agency may charge a municipality for this assistance under this section. A municipality may recover these costs from the developer.

2. Type of development. The following provisions apply to assistance under this section.

A. Assistance is available for the review of site location issues arising from a proposal for a subdivision of at least 5 lots and 20 acres and for a proposal for a development that has at least 3 acres of buildings, parking lots, roads, paved areas, wharves or areas to be stripped or graded and not revegetated and not subject to review by the department under this article.

B. A municipality may also obtain technical assistance in the form of a peer review from a private consultant or regional council and may recover costs from the developer for a project of any size. The State Planning Office has the authority to establish rules as necessary for this purpose.

Sec. A-23. Transition provisions.

1. A permit issued pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 6 prior to the effective date of this Act remains in effect, as written, until rescinded pursuant to Title 38, section 489-C or modified by the Department of Environmental Protection.

2. A project that requires a permit issued pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 6 prior to the effective date of this Act for a subdivision or a structure that would not require a permit if proposed after the effective date of this Act must continue to meet the

standards of the site location of development laws in Title 38, chapter 3, subchapter I, article 6 when applying for a modification except that additional facilities, lots, roads or any portions of the project that are proposed to be located in new areas that were not identified as protected or part of the development during the licensing process, as determined by the Department of Environmental Protection, do not require review unless the additional portions would themselves require review after the effective date of this Act.

3. A municipality with delegated authority pursuant to the Maine Revised Statutes, Title 38, section 489-A prior to the effective date of this Act continues to have delegated authority following the effective date of this Act and is presumed to have capacity pursuant to Title 38, section 489-D as of the effective date of this Act.

Sec. A-24. Report; permit-granting authority. The Department of Transportation, in consultation with the Department of Environmental Protection and others as appropriate, shall determine the alternatives for a transfer of responsibilities regarding permit-granting authority relating to traffic, and report to the First Regular Session of the 119th Legislature no later than February 1, 1999. The report of the Department of Transportation must include any necessary implementing legislation that will provide for the transfer of permit-granting authority to the Department of Transportation no later than June 30, 1999.

Unless a transfer of the permit-granting authority to the Department of Transportation occurs earlier, and notwithstanding any other provision of law, beginning June 30, 1999, the Department of Transportation has permit-granting authority relating to traffic. In the event of a transfer, a proposed development subject to review under the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 6, solely because it meets the traffic threshold provisions of Title 38, section 482, subsection 2, is subject only to the jurisdiction of the Department of Transportation. Projects subject to review under Title 38, chapter 3, subchapter I, article 6 on grounds including, but not limited to, the traffic threshold are subject to the joint jurisdiction of the Department of Environmental Protection and the Department of Transportation and this joint jurisdiction must be exercised through a consolidated proceeding.

Sec. A-25. Development of recommendations. The Land and Water Resources Council, established in the Maine Revised Statutes, Title 5, section 3331, shall form a committee consisting of representatives of the Department of Environmental Protection, the Office of the State Fire Marshal, the Board of Pesticides Control, the Maine Emergency

Management Agency, affected industries and municipal and other public interests to discuss and study the requirements of a uniform system for the registration, storage and handling of petroleum products, hazardous materials and other substances with the potential to contaminate groundwater. The committee need not consider spill prevention, control and countermeasures plans and related procedures for activities regulated under Title 38, chapter 3, subchapter I, articles 7 and 8. The committee shall develop recommendations regarding required legislative or regulatory action and submit them to the Land and Water Resources Council no later than January 10, 1998. The Land and Water Resources Council may submit legislation based on these recommendations to the First Regular Session of the 118th Legislature no later than January 20, 1998.

The Department of Environmental Protection shall develop, in concert with the Department of Conservation, the Department of Human Services and other affected state agencies, water utilities, water bottlers and other interested parties, a program to minimize the potential for unreasonable adverse impact on the availability of groundwater to support existing uses. This program may have both regulatory and nonregulatory components and must assess the availability of groundwater in different regions of this State to support future development without unreasonable adverse impacts on existing uses or the natural environment. The Department of Environmental Protection shall present recommendations for any statutory requirements to the Land and Water Resources Council no later than January 10, 1998. The Land and Water Resources Council may submit legislation based on these recommendations to the First Regular Session of the 118th Legislature no later than January 20, 1998.

Sec. A-26. Memorandum of agreement.

The Department of Environmental Protection and the Department of Human Services shall identify changes to the subsurface wastewater disposal rules and other relevant rules and statutes needed to address the potential for adverse impacts on groundwater quality from engineered disposal fields and the Department of Human Services shall adopt any such changes to its rules. The Department of Environmental Protection and the Department of Human Services shall enter into a memorandum of agreement no later than 30 days after the effective date of this Act under which the Department of Environmental Protection shall provide review of potential water quality impacts from large disposal systems.

PART B

Sec. B-1. 30-A MRSA §4452, sub-§7, as corrected by RR 1993, c. 1, §77, is amended to read:

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the ~~Commissioner of Human Services~~ State Planning Office under section 4221 as familiar with court procedures, may enforce the provisions of the natural resources protection laws, Title 38, chapter 3, subchapter I, article 5-A and Title 38, section 420-C, by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

Sec. B-2. 38 MRSA §§420-C and 420-D are enacted to read:

§420-C. Erosion and sedimentation control

A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in section 480-B. Erosion control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken.

This section applies to a project or any portion of a project located within an organized area of this State. This section does not apply to agricultural fields. Forest management activities, including associated road construction or maintenance, conducted in accordance with applicable standards of the Maine Land Use Regulation Commission, are deemed to comply with this section. This section may not be construed to limit a municipality's authority under home rule to adopt ordinances containing stricter standards than those contained in this section.

§420-D. Storm water management

A person may not construct, or cause to be constructed, a project that includes 20,000 square feet or more of impervious area or 5 acres or more of disturbed area in the direct watershed of a body of water most at risk from new development or one acre or more of impervious area or 5 acres or more of disturbed area in any other area without prior approval from the department. A person proposing a project shall apply to the department for a permit using an application provided by the department. This section applies to a project or any portion of a project that is located within an organized area of this State.

1. Standards. The department shall adopt rules specifying quantity and quality standards for storm water. Storm water quality standards for projects with 3 acres or less of impervious surface may address phosphorus, nitrates and suspended solids but may not

directly address other dissolved or hazardous materials unless infiltration is proposed. Storm water quality standards apply only in the direct watersheds of waterbodies most at risk from development and in sensitive or threatened geographic regions or watersheds defined by the department under subsection 4. Until such regions are defined, storm water quality standards are not required to be met by a permit applicant.

2. Review. If the applicant is able to meet the standards for storm water using solely vegetative means, the department shall review the application within 30 calendar days. If structural means are used to meet those standards, the department shall review the application within 60 calendar days. The review period begins upon receipt of a complete application and may be extended pursuant to section 344-B. The department may request additional information necessary to determine whether the standards of this section are met. The application is deemed approved if the department does not notify the applicant within the applicable review period.

The department may allow a municipality or a quasi-municipal organization, such as a watershed management district, to substitute a management system for storm water approved by the department for the permit requirement applicable to projects in a designated area of the municipality.

3. Watersheds of bodies of water most at risk. The department shall establish by rule a list of watersheds of bodies of water most at risk from new development. In regard to lakes, the list must include, but is not limited to, public water supply lakes and lakes identified by the department as in violation of class GPA water quality standards or as particularly sensitive to eutrophication based on current water quality, potential for internal recycling of phosphorus, potential as a cold water fishery, volume and flushing rate or projected growth rate in a watershed. The department shall review and update the list as necessary. A municipality within the watershed of a body of water most at risk may petition the department to have the body of water added to or dropped from the list.

4. Sensitive or threatened regions or watersheds. The department shall establish by rule a list of sensitive or threatened regions or watersheds. These areas include the watersheds of surface waters that:

A. Are susceptible to degradation of water quality or fisheries because of the cumulative effect of reasonably foreseeable levels of development activity within the watershed of the affected surface waters; and

B. Are not classified as "watersheds of bodies most at risk" under subsection 3.

5. Relationship to other laws. A permit pursuant to this section is not required for a project requiring review by the department pursuant to any of the following provisions but the project may be required to meet standards for management of storm water adopted pursuant to this section: article 5-A, protection of natural resources; article 6, site location of development; article 7, performance standards for excavations for borrow, clay, topsoil or silt; article 8-A, performance standards for quarries; and sections 631 to 636, permits for hydropower projects.

6. Urbanizing areas. The department shall work with the State Planning Office to identify urban bodies of water most at risk and incorporate model ordinances protective of these bodies of water into assistance provided to local governments.

7. Exemptions. The following exemptions apply.

A. Forest management activities, including associated road construction or maintenance, do not require review pursuant to this section if any road construction is used primarily for forest management activities and is not used primarily to access development.

B. Disturbing areas for the purpose of normal farming activities, such as clearing of vegetation, plowing, seeding, cultivating, minor drainage and harvesting, does not require review pursuant to this section.

C. If the commissioner determines that a municipality's ordinance meets or exceeds the provisions of this section and that the municipality has the resources to enforce that ordinance, the commissioner shall exempt any project within that municipality. The department shall maintain a list of municipalities meeting these criteria and update this list at least every 2 years. If a municipality on the list no longer meets these criteria, it must be removed from the list. A project constructed after a municipality is removed from the list must obtain approval pursuant to this section.

D. Construction projects at industrial facilities for which a federal storm water permit application has been made or construction projects at facilities for which storm water is regulated under an existing federal discharge permit do not require review pursuant to this section.

E. Impervious and disturbed areas associated with construction or expansion of a single-family, detached residence on a parcel do not require review pursuant to this section.

F. Waste facilities regulated by the department under section 1310-N, 1319-R or 1319-X do not require review under this section. This exemption applies to new facilities, modifications of facilities, transfers of facilities and relicensing of facilities.

G. Projects involving roads, railroads and associated facilities conducted by or under the supervision of the Department of Transportation or the Maine Turnpike Authority, do not require review under this section as long as the projects are constructed pursuant to storm water quality and quantity standards set forth in a memorandum of agreement between the department and the conducting or supervising agency and the project does not require review under article 6. A memorandum of agreement described in this paragraph must be updated whenever the rules concerning storm water management adopted by the department are finalized or updated.

8. Enforcement. Any activity that takes place contrary to the provisions of a valid permit issued under this article or without a permit having been issued for that activity is a violation of this article. Each day of a violation is a separate offense. A finding that any such violation has occurred is prima facie evidence that the activity was performed or caused to be performed by the owner of the property where the violation occurred. Prior to July 1, 1998, the department may not seek to impose civil or criminal penalties for a violation of this section against any person who has made a good faith effort to comply.

9. Rules. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

10. Fees. An applicant for a permit under this section shall pay a fee to the department as follows.

A. When a permit is required because of the size of the proposed impervious area, the following fees apply.

(1) If structural means of erosion control are used, the fee is \$500 for from 20,000 square feet up to one acre of impervious area, plus \$250 for each additional whole acre of impervious area.

(2) If solely vegetative means of erosion control are used, the fee is \$250 for from 20,000 square feet up to one acre of impervious area, plus \$125 for each additional whole acre of impervious area.

B. When a permit is required because of the size of the proposed disturbed area, the following fees apply.

(1) If structural means of erosion control are used, the fee is \$500 for 5 acres, plus \$250 for each additional whole acre of impervious area.

(2) If solely vegetative means of erosion control are used, the fee is \$250 for 5 acres, plus \$250 for each additional whole acre of impervious area.

C. When a permit by rule is required as provided by rules adopted by the department, the fee is \$35.

If a project described in paragraph A or B is reviewed and approved by a professional engineer at a soil and water conservation district office that has a memorandum of understanding with the department concerning review of projects pursuant to this section, the fee is reduced to \$100 for from 20,000 square feet up to one acre of impervious area or 5 acres of disturbed area, plus \$50 for each additional whole acre.

This section may not be construed to limit a municipality's authority under home rule to adopt ordinances containing stricter standards than those contained in this section.

Sec. B-3. Memorandum of agreement.

The Department of Environmental Protection shall conclude a memorandum of agreement with the Department of Transportation by July 1, 1997 specifying the storm water quality and quantity standards to be applied to projects exempt pursuant to the Maine Revised Statutes, Title 38, section 420-D, subsection 7, paragraph G.

Sec. B-4. Transition provisions applicable to the Maine Revised Statutes, Title 38, section 420-D.

Impervious areas and disturbed areas created prior to the effective date of the Maine Revised Statutes, Title 38, section 420-D are not counted when determining the amount of impervious area or disturbed area on a parcel. If review is required for impervious areas or disturbed areas created on or after the effective date of Title 38, section 420-D, areas created prior to the effective date of Title 38, section 420-D are not reviewed except to the extent necessary to ensure that controls intended to address the new areas function adequately.

New construction on an impervious area created prior to the effective date of Title 38, section 420-D is not counted when determining the amount of impervious area on a parcel.

PART C

Sec. C-1. Rule-making authority. The Department of Environmental Protection has authority to adopt rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to implement Title 38, section 420-D; section 484, subsection 2, paragraph B; and section 485-A, subsection 1-C, as enacted by this Act and in accordance with the terms of those sections. Such rules must be provisionally adopted and submitted to the Legislature for review as major substantive rules pursuant to Title 5, chapter 375, subchapter II-A no later than January 1, 1997.

Sec. C-2. Effective date. This Act takes effect July 1, 1997, except section 1 of this Part takes effect 90 days after adjournment of the Second Regular Session of the 117th Legislature.

Sec. C-3. Retroactivity. That section of this Act that repeals the Maine Revised Statutes, Title 38, section 488, subsection 3 applies retroactively to July 3, 1980.

Effective July 1, 1997, unless otherwise indicated.

CHAPTER 705

S.P. 700 - L.D. 1790

An Act to Implement Performance Budgeting in State Government

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

Whereas, Public Law 1995, chapter 395 created the Commission on Performance Budgeting; and

Whereas, the Legislature proposes to require each state agency to develop a performance budget for one program by the 1998-1999 biennium and for all programs by the 2000-2001 biennium; and

Whereas, the Legislature proposes to require state agencies to develop strategic plans by August 1, 1996; and

Whereas, state agencies need advance notice and lead time to conduct their planning processes in order to meet the schedule proposed by the 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 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. 5 MRSA §1710-K, as enacted by PL 1995, c. 395, Pt. B, §1, is repealed and the following enacted in its place:

§1710-K. Commission on Performance Budgeting established; definitions

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

A. "Commission" means the Commission on Performance Budgeting.

B. "Measurable objective" means a specific quantifiable outcome that defines how an agency will achieve its goals and that defines the actual impact on the public being served rather than the level of effort expended by the agency. The use of a measurable objective is a tool to assess the effectiveness of an agency's performance and the public benefit derived.

C. "Performance budgeting" means the method for developing and finalizing an agency's request for appropriations or allocations derived from its strategic plan and consistent with an agency's statutory responsibilities. Performance budgeting allocates resources based on the achievement of measurable objectives, which in turn are related to the agency's mission and goals.

D. "Policy area" means a broad functional category into which executive departments, state agencies, organizations, corporations, associations or programs and subprograms are grouped according to the degree to which they share the same or similar goals; encompass activities that share a common purpose; have common or similar customers; have common or similar measurable objectives; and may be analyzed by similar methods as defined by the State Budget Officer and the Legislative Council or the council's designee.

E. "Program" means a grouping of activities and expected results that are directed toward the accomplishment of a set of goals and objectives and represent a department, bureau, division or operational entity to which the Legislature appropriates or allocates resources as defined by the State Budget Officer and the Legislative Council or the council's designee.

F. "State agency" means a department, agency, organization, corporation or association that receives a direct appropriation or allocation from the State or is required to comply with chapter 149.

G. "Strategic plan" means a long-range, policy-oriented document that maps an explicit path between the present and a vision of the future. A strategic plan is derived from an assessment, goal-setting and decision-making process that relies on careful consideration of an agency's capabilities and environment. A strategic plan identifies a state agency's mission, goals, measurable objectives and strategies and leads to priority-based resource allocation and other decisions. For purposes of implementing this chapter, the State Planning Office may prescribe the format and process for developing a strategic plan.

H. "Subprogram" means a grouping of activities and expected results that is directed toward a set of measurable objectives and represents a subset of a program.

2. Commission established. The Commission on Performance Budgeting 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.

Sec. 2. 5 MRSA §§1710-P and 1710-Q are enacted to read:

§1710-P. Performance budgeting

State Government shall fully implement performance budgeting according to the following schedule.

1. Development of a draft strategic plan. By August 1, 1996, each state agency shall develop a draft strategic plan. During preparation of the plan, each agency shall consult with and receive comments from the joint standing committee of the Legislature having jurisdiction over that agency's matters. Each state agency shall provide copies of its draft strategic plan to the Director of the State Planning Office, the State Budget Officer, the Director of the Office of Fiscal and Program Review and the joint standing committee of the Legislature having jurisdiction over that agency's matters.

2. Selection of a program within each agency. By September 1, 1996, each state agency shall develop for one program budget proposals that are tied to measurable objectives for that program. During selection of the program, each agency shall consult with and receive comments from the joint standing

committee of the Legislature having jurisdiction over that agency's matters, the State Budget Officer and the Director of the Office of Fiscal and Program Review.

3. Submission of the final strategic plan and program selection for legislative review. No later than February 1, 1997, each state agency shall submit its final strategic plan and budget proposal for the selected program for review by the joint standing committee of the Legislature having jurisdiction over that agency's matters. Copies of each final strategic plan and budget proposal must be provided to the State Budget Officer and the Director of the Office of Fiscal and Program Review.

4. Selection of program by policy area. By September 1, 1997, each state agency shall identify at least one program or significant subprogram within a policy area that has the same or similar goals and objectives as one or more other state agencies; develop jointly with those state agencies measurable objectives; and coordinate strategies for achieving those objectives. During selection of the program, each agency shall consult with and receive comments from the joint standing committee of the Legislature having jurisdiction over that agency's matters, the State Budget Officer and the Director of the Office of Fiscal and Program Review.

Each state agency shall submit its joint measurable objectives and strategies to the Director of the State Planning Office, who shall provide copies to the State Budget Officer, the Office of Fiscal and Program Review and the joint standing committee of the Legislature having jurisdiction over the agency's matters.

5. Development of policy areas. By December 31, 1997, the State Budget Officer and the Legislative Council or the council's designee, in consultation with state agencies, shall develop a plan to group all state agencies into policy areas, which must be formed around common goals and measurable objectives. Any plan that proposes to transfer or modify the existing statutory mission or mandate of an agency must be submitted to and approved by the Legislature prior to implementation.

6. Development of joint strategic plans. By June 30, 1998, state agencies within each policy area shall develop joint strategic plans that identify common goals, measurable objectives and strategies for all programs. Plans must be submitted to the Director of the State Planning Office. The Director of the State Planning Office shall provide copies to the joint standing committees of the Legislature having jurisdiction over the matters encompassed by each policy area.

7. Development of joint budget proposals. By September 1, 1998, state agencies within each policy

area shall develop budget proposals that are tied to their joint measurable objectives and strategic plan.

8. Demonstration project; job training programs. The Department of Labor, the Department of Education, the Department of Human Resources, the Department of Mental Health and Mental Retardation and the Maine Technical College System shall at a minimum select job training as one of the policy areas in which they develop joint strategic planning and budgeting as a demonstration project for the purposes of carrying out the requirements of subsections 4 to 7 for the biennium beginning July 1, 1997.

§1710-Q. Repeal

This chapter is repealed July 1, 2003.

Sec. 3. Report on repeal; legislation. The Commission on Performance Budgeting shall provide recommendations by January 1, 2003 to the Governor and the joint standing committee of the Legislature having jurisdiction over State Government matters concerning the need for repealing the repeal of the Maine Revised Statutes, Title 5, chapter 151-C and extending authorization for the implementation of performance budgeting. The committee may report a bill based on these recommendations.

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

Effective April 12, 1996.

PRIVATE AND SPECIAL LAWS OF THE STATE OF MAINE
AS PASSED AT
THE SECOND REGULAR SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995

CHAPTER 52

H.P. 1164 - L.D. 1597

**An Act to Reduce the State Tax
Valuation for the Town of Hope**

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

Whereas, it is necessary that this legislation be enacted as an emergency in order that decisions regarding county taxes, school appropriations and any other decisions based on the just value of property in the Town of Hope will be based on the correct 1996 state valuation for Episcopal Camp Foundation's property; and

Whereas, on October 20, 1995, the Maine Supreme Judicial Court ruled that the property known as Bishopswood situated in the Town of Hope is exempt from taxes; and

Whereas, awaiting the next valuation adjustment by the State is a severe hardship to the Town of Hope; 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. Correct 1996 state valuation. Notwithstanding any other provision in the Maine Revised Statutes, Title 36, the 1996 state valuation for the Town of Hope for the purposes of calculating county taxes, school appropriations and any other decisions regarding allocation of funds or assessment of taxes must be based on the 1996 state valuation that values the property of the Episcopal Camp Foundation, Inc. (Bishopswood) in Hope at \$0.

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

Effective January 29, 1996.

CHAPTER 53

H.P. 1243 - L.D. 1705

**An Act to Establish Educational
Services for Grades 7 to 12 in the
Towns of Mechanic Falls, Minot and
Poland**

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 towns of Mechanic Falls, Minot and Poland are currently providing education for grades 9 to 12 in Poland and Minot and grades 10 to 12 in Mechanic Falls, through tuition agreements that have been terminated by the receiving school administrative unit effective in the fall of 1996; and

Whereas, it is in the interest of the 3 towns to have adequate planning and preparatory time to establish a new school for the continuing education of their students; and

Whereas, it is necessary to put into operation a plan for the construction of a new school in as timely a manner as possible to ensure an orderly and timely transition to a new school with the least amount of hardship on the students from these towns; and

Whereas, that plan must be approved by the Legislature and subsequently by the local voters in the respective towns; 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. Alternative organizational plan authorized. In order to provide education services to the children of the towns of Mechanic Falls, Minot and Poland, the following alternative organizational plan is authorized. The school department in the Town of Poland is authorized to construct a school in the Town of Poland to accommodate students in grades 7 to 12 from the Town of Poland. In conjunction with the construction of this school, the school department in the Town of Poland shall make provisions to modify the size and scope of the building to accommodate students in grades 9 to 12 from the towns of Mechanic Falls and Minot. The towns of Mechanic Falls and Minot shall enter into a long-term contract with the Town of Poland for secondary school services for those grade levels.

Sec. 2. Town of Poland to contract with the towns of Mechanic Falls and Minot. In accordance with the alternative organizational plan authorized in section 1, the towns of Mechanic Falls and Minot shall enter into a contract with the Town of Poland for secondary school services for at least 90% of the students in grades 9 to 12 from the towns of Minot and Mechanic Falls. The contract must be for a period of not less than 20 years. In accordance with the alternative organizational plan, the contract with Mechanic Falls and Minot must provide that after a period of 15 years, the contract may be terminated by any party unilaterally by giving a 5-year notice of that party's intent to terminate.

Sec. 3. Emergency project. Subject to referendum approval required by section 9, the alternative organizational plan authorized in section 1 is an emergency project. The project authorized by this Act must be given priority status for the State Board of Education's approval and immediate approval for funding under the rules of the State Board of Education, chapter 61 for school construction projects.

Sec. 4. Tuition rates; special education costs; transportation costs; agreements. The school department in the Town of Poland shall provide secondary school services for the towns of Mechanic Falls and Minot in accordance with the Maine Revised Statutes, Title 20-A, section 1258, subsection 1 and section 5801 including all customary

facilities and supplies for those resident students in the proportions provided for in section 2 of this Act.

For the instruction, facilities and supplies furnished during the school year by the Town of Poland, the towns of Mechanic Falls and Minot shall pay the school department in the Town of Poland the legal tuition rate provided in the Maine Revised Statutes, Title 20-A, sections 5805 and 5807. The tuition rates charged for students who attend regional vocational programs must be determined by the laws of the State.

Responsibility for the cost of providing special education services to students with disabilities from the towns of Poland, Mechanic Falls and Minot is governed by the special education rules of the Department of Education.

Each town named in this Act shall provide transportation for secondary school students attending the school in the Town of Poland and bear the cost of transportation for students to and from the secondary school facility. These costs are over and above tuition costs paid by sending towns.

Sec. 5. Certain costs not currently covered by the State Board of Education's rules for school construction projects. Certain costs relating to the purchase of library books, reference material, software, audio-visual materials and textbooks not currently included in the State Board of Education's definition of "movable equipment" must be included in a bond issue, not to exceed \$600,000, separate from the bond issue to cover the cost of the construction of the school. Issuance of the bond to cover the costs not covered by the State Board of Education's rules for school construction projects is authorized under the Maine Revised Statutes, Title 30-A, section 5772, general obligation bonds. These bonds may not be issued for more than a 5-year period of repayment.

The principal and interest costs generated by the bond are not subsidized as debt service and the debt service millage limit, established in the Maine Revised Statutes, Title 20-A, section 15607, subsection 2, does not apply to this bond issue. The local and state share of the annual bond payment is based on the local and state share percentage for that year specified in Title 20-A, section 15654. Each annual bond payment is subsidized in the year in which it becomes due.

Sec. 6. Transfer of existing assets. Textbooks and other materials exclusively relating to grades 9 to 12 in the towns of Minot and Mechanic Falls existing in June 1998 must be transferred to the secondary school in the Town of Poland during the summer preceding the first year of operation.

Sec. 7. State subsidies for the first year of operation. For purposes of this Act, the actual local operating costs defined in the Maine Revised Statutes, Title 20-A, section 15603, subsection 26-A, paragraph A for the secondary school in the Town of Poland must be amended to include the aggregate operating expenditure amount for high school student tuition for the towns of Mechanic Falls and Minot reported on the EMF 45 forms for the 2nd year prior to the opening of the secondary school of the Town of Poland. This amount must be considered to be the school department's actual expenditure for high school tuition for the 2nd year prior to the first operating year of the secondary school.

Sec. 8. Joint school committee organization. Except as otherwise provided in this Act, contracts for school privileges must be established between the Town of Poland and the towns of Mechanic Falls and Minot in accordance with the Maine Revised Statutes, Title 20-A, section 2703.

As a part of the tuition contracts, a joint committee is established. The committee consists of 5 members from the seated school committee in the Town of Poland and one from each of the school committees in the towns of Minot and Mechanic Falls. This committee shall meet independently from the school committee in the Town of Poland and has the following powers and duties:

1. To select and employ teachers for the secondary school in the Town of Poland;
2. To set teachers' salaries;
3. To arrange for the course of studies;
4. To supervise the instruction; and
5. To adopt, amend and enforce rules pertaining to the educational activities of the secondary school in the Town of Poland.

If the tuition contract between the Town of Poland and the Town of Minot or between the Town of Poland and the Town of Mechanic Falls is terminated, membership on the committee from the Town of Minot or from the Town of Mechanic Falls, as the case may be, is forfeited as of the date that the tuition contract is terminated.

Sec. 9. Referendum; effective date. This Act must be submitted to the legal voters of the towns of Poland, Mechanic Falls and Minot at a special town meeting called for the purpose within 60 days of the approval of this Act. That special town meeting must be called, advertised and conducted according to the law relating to municipal elections; except, however, that the municipal officers of the town may not be required to prepare for posting, nor the town clerk to

post, a new list of voters and for the purpose of registration of voters the board of voter registration must be in session on the secular day next preceding the special election. The town clerk of the town shall prepare the required ballots, on which the clerk shall reduce the subject matter of this Act to the following question:

"Do you approve of authorizing an alternative organizational plan that includes the building of a school in the Town of Poland for grades 7 to 12, to which the towns of Mechanic Falls or Minot or both will pay tuition for grade 9-12 students?"

The voters shall indicate by a cross or check mark placed against the word "YES" or "NO" their opinion of the same.

If the towns of Minot, Mechanic Falls or Poland vote not to approve the question in this section within 60 days of the effective date of this Act, that town has an additional 60 days from the date of the vote to hold another referendum on the question if a majority of the municipal officers of that town considers it to be in the best interest of the town.

The result of the vote must be declared by the municipal officers of the towns of Poland, Mechanic Falls and Minot and due certificate must be filed by the town clerk with the Secretary of State.

This Act takes effect for all purposes immediately upon its acceptance by a majority of the voters of the Town of Poland and the voters of either the towns of Mechanic Falls or Minot. If either the town of Minot or Mechanic Falls fails to approve the question in this section within 120 days of legislative approval of this Act, then this Act does not apply to that town and that town is relieved from all rights and obligations under this Act.

Sec. 10. Graduating seniors; attendance option. During the first year of operation of the secondary school in the Town of Poland, students from Poland entering their senior year may attend and graduate from the system they attended as juniors during the year immediately preceding the first year of operation of the secondary school.

During the first year of operation of the Poland secondary school, students from the towns of Mechanic Falls and Minot entering their senior year may attend and graduate from the system they attended as juniors during the year immediately preceding the first year of operation of the secondary school.

For subsidy purposes, those students attending elsewhere from the Town of Poland during the first year of operation will be considered resident students at the secondary school.

Sec. 11. Other tuition students. Nothing in this Act precludes the school department in the Town of Poland from accepting tuition students from school departments other than those of the towns of Mechanic Falls and Minot.

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

Effective pending referendum.

CHAPTER 54

S.P. 632 - L.D. 1640

An Act to Amend the Laws Regarding the Apportionment of Costs of the Mount Desert Island Regional School District among Member Towns

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. P&SL 1963, c. 176, §15 is amended to read:

Sec. 15. Operational, maintenance and capital costs, apportionment among towns. The total annual budgeted expenses of the Mount Desert Island Regional School District ~~shall must~~ be apportioned among the participating towns according to the following formulas: 33% of the total ~~will be~~ is assessed among the participating towns in the same proportion as the percentage of resident pupils of each town enrolled in ~~Grades~~ grades 9 to 12 bears to the total from all towns in ~~said those~~ said grades, with the enrollment ~~to be~~ taken as the average of the enrollments of April 4 1st and December 31 31st in ~~said~~ those grades of the calendar year preceding that year to which the budget applies; 67% of the total ~~will be~~ is assessed among the participating towns in the same proportion as the State valuation fiscal capacity of each participating town ~~for the year preceding that year to which the budget applies~~ bears to the total fiscal capacity of all participating towns. The fiscal capacity of a participating town is measured as the average of the state valuation for that town for the 3

most recent years preceding the year to which the budget applies.

Towns entering the district, after it has been duly incorporated as ~~hereinbefore~~ provided, ~~shall~~ have the values for relative enrollment and relative State valuation fiscal capacity, as ~~defined above~~ specified in this section, inserted in the formula in the same manner as outlined ~~above in this section~~; ~~provided, however, except~~ that the total relative percentages for the participating towns within each of the ~~two~~ 2 divisions, enrollment and State valuation fiscal capacity, ~~shall must~~ be adjusted to total 100%.

See title page for effective date.

CHAPTER 55

H.P. 1168 - L.D. 1600

An Act to Amend the Charter of Milbridge Water District

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

Sec. 1. P&SL 1981, c. 55, §6, 2nd ¶, as amended by P&SL 1981, c. 92, §§3 and 4, is further amended to read:

As soon as may be after the acceptance of this Act as hereinafter provided, the municipal officers of Milbridge shall appoint 5 trustees of the district to hold office as follows: Two to serve until the first annual election of municipal officers following the acceptance of this Act; 2 to serve until the 2nd annual election of municipal officers following the acceptance; and one to serve until the 3rd annual election of municipal officers following such acceptance. At each annual election of municipal officers, beginning with the first annual election of municipal officers after the acceptance of this Act, as their terms expire, one or 2 trustees as appropriate ~~shall be~~ are elected by ballot to serve until the annual election of municipal officers occurring 3 years thereafter and until their successors are appointed or elected and qualified. Election of trustees ~~shall must~~ be conducted in accordance with the procedures for and at the same time as election of the municipal officers of Milbridge. Each trustee must be 18 years of age or older, a resident of the district and reside in a household to which the district's service is provided. Whenever any trustee who was appointed as a resident of the district ceases to be a resident of the district or reside in a household to which the district's service is provided, he that trustee vacates the office of trustee. All trustees shall be are eligible for reelection. Vacancies in the office of trustee ~~shall must~~ be filled by appointment ~~of~~ by the municipal officers of the town

of Milbridge until the next annual election. At any annual election the voters of the district shall cast their ballot for as many candidates as there are offices to be filled, including vacancies in any unexpired terms.

Sec. 2. P&SL 1981, c. 55, §11, 3rd ¶ is repealed.

See title page for effective date.

CHAPTER 56

H.P. 1170 - L.D. 1602

An Act to Amend the Bowdoinham Water District Charter

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

Sec. 1. P&SL 1957, c. 121, §7, first ¶, 6th sentence is amended to read:

They shall choose annually a treasurer to serve for a term of 1 year, fix the treasurer's salary, ~~which shall in no case exceed \$200 per year,~~ and fill vacancies in that office.

Sec. 2. P&SL 1957, c. 121, §7, first ¶, 8th sentence is amended to read:

Members of the board ~~shall be~~ are eligible ~~to~~ for any office under the board, ~~but shall not receive compensation therefore, except as trustee, unless authorized by vote of the municipal officers of the town of Bowdoinham.~~

Sec. 3. P&SL 1957, c. 121, §7, 2nd ¶ is repealed.

Sec. 4. P&SL 1957, c. 121, §9, first ¶, 2nd sentence, as amended by P&SL 1967, c. 215, §2, is further amended to read:

For the purposes of obtaining or providing money to pay or to meet any necessary expenses and liabilities under the provisions of this Act, including expenses in the creation of this district, in securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant, and making extensions, additions and improvements to the same, the said district, through its trustees, may from time to time issue bonds of the district to an amount not exceeding ~~\$500,000~~ \$2,500,000, maturing and payable at such time or times, in uniform or varying installments, with or without such call provisions, and with or without such

a premium or premiums, as said trustees shall determine.

See title page for effective date.

CHAPTER 57

H.P. 1173 - L.D. 1605

An Act to Amend the Charter of the East Pittston Water District

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

Whereas, the gasoline contamination in East Pittston has spread to additional wells in the area and poses a serious threat to the health and well-being of residents of that area; and

Whereas, an adequate supply of pure water is essential to the health and well-being of the inhabitants of East Pittston; 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. P&SL 1987, c. 144, §1 is amended to read:

Sec. 1. Territorial limits; corporate name; purposes. Subject to section 15, the inhabitants and territory of that part of the Town of Pittston in Kennebec County comprised of the area beginning at the junction of the east and west branches of the Eastern River ~~at~~ approximately 600 feet east northeast of the crossing of the Eastern River by Route 194, in East Pittston, then going 900 feet S 10°W to a point, then going 900 feet S 30°W to a point, then going 975 feet S 42°W to a point, then going N 50°W to a point 550 feet N 50°W of the center line of the Dresden Road ~~at~~ also called the Kelly Road on some maps, then going directly north to the Eastern River, then following the Eastern River upstream to the southwest corner of Lot 59, R-11 of the Property Tax Maps of the Town of Pittston; thence due north to the southern border of Lot 61; thence easterly along the border of Lot 61 to the intersection of Route 194; thence northeasterly along the southern side of the Hunts Meadow Road to the intersection of the west branch of the Eastern River; thence southeasterly along the southern shore to the point of beginning

~~shall constitute~~ constitute a body politic and corporate under the name of "East Pittston Water District" for the purpose of supplying the inhabitants and others of the district with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes.

Sec. 2. P&SL 1987, c. 144, §2 is amended by inserting after the first paragraph a new 2nd paragraph to read:

Notwithstanding this section, the district is not required to file a petition or obtain the approval of the Public Utilities Commission in order to provide water to residents of the district with contaminated wells, provided the district obtains the approval of the Department of Environmental Protection.

Sec. 3. P&SL 1987, c. 144, §9, sub-§1, first ¶ is amended to read:

1. First board. Within 14 days after the acceptance of this Act, the ~~selectmen~~ municipal officers of the Town of Pittston, who are especially appointed for this purpose, shall appoint 3 trustees. After the selection of the first board, the only eligibility requirements for the office of trustee of the district ~~shall be~~ are residence within the district and eligibility to vote, and all subsequent trustees ~~shall be~~ are elected by the residents of the district as provided in the Maine Revised Statutes, Title 35-A, chapter 63 in an annual election to be held ~~on the first Saturday of March in each year~~ during the annual election of town officials of Pittston.

Sec. 4. P&SL 1987, c. 144, §9, sub-§4 is amended to read:

4. Vacancies; incompatible offices. Whenever the term of office of a trustee expires, a successor ~~shall~~ must be elected by a plurality vote by the inhabitants of the district, and upon nomination made as provided in this section for the election of trustees; and for the purpose of election a special election ~~shall~~ must be called and held ~~on the first Saturday of March in each year during the annual election of town officials of Pittston,~~ the election to be called by the trustees of the district in the same manner as town meetings are called. For this purpose, the trustees are vested with the powers of ~~selectmen~~ municipal officers of towns. The trustees so elected ~~shall~~ must serve the full term of 3 years and, in case ~~any~~ a vacancy arises in the membership of the board of trustees, it ~~shall~~ must be filled ~~in like manner for the unexpired term by special election to be called by the trustees of the district until the next election by appointment by the municipal officers.~~ When ~~any~~ a trustee ceases to be a resident of the district, that trustee shall vacate the office of trustee and the vacancy ~~shall~~ must be filled as provided in this section. All trustees ~~shall be~~ are eligible for reelection, but ~~no person holding office of selectman a~~

municipal officer or road commissioner in the Town of Pittston ~~may be~~ is not eligible for nomination or election as trustee.

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

Effective March 6, 1996.

CHAPTER 58

H.P. 1193 - L.D. 1637

An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending 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 Maine State Retirement System will become due and payable before the 90-day period may terminate; 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. Allocation of funds. Administrative operating expenses of the Maine State Retirement System for the fiscal year ending June 30, 1997 must be paid from the system's expense fund in accordance with the following schedule.

1996-97

MAINE STATE RETIREMENT SYSTEM

Personal Services	\$4,752,613
All Other	2,569,350

MAINE STATE RETIREMENT SYSTEM TOTAL

\$7,321,963

Sec. 2. Attribution of costs. The expenses identified in section 1 of this Act are attributed as follows.

	1996-97
General Fund	\$4,700,000
Non-General Fund	1,872,831
Participating Local District and Other	749,132
TOTAL	\$7,321,963

Sec. 3. Transfers of allocations; year-end balances. Transfers of allocations and carry forwards of unexpended balances must be carried out in accordance with the Maine Revised Statutes, Title 5, section 17103, subsection 13.

Sec. 4. Collective bargaining agreement approval. As required by the Maine Revised Statutes, Title 5, section 17103, subsection 14, collective bargaining agreements for fiscal year 1995-96 and fiscal year 1996-97 between the Maine State Retirement System and the Maine State Employees Association for the retirement system's administrative service, professional technical and supervisory bargaining units are approved.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1996.

Effective July 1, 1996.

CHAPTER 59

H.P. 1176 - L.D. 1608

An Act Creating a Process for Municipalities to Withdraw from the Cobbossee Watershed District

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

Sec. 1. P&SL 1971, c. 95, sub-§§16 and 17 are enacted to read:

Sec. 16. Procedure for municipal withdrawal from district. The voters of a municipality may, in accordance with the procedures of this section and the secret ballot referendum or initiative provisions of the Maine Revised Statutes, Title 30-A, section 2528, elect to withdraw from the district.

1. The municipal officers of the municipality considering withdrawal must notify the executive director of the district or chair of the board of trustees,

in writing, at least 45 days before the date of the referendum vote. Timely notice must also be provided in the same manner of the time, date and place of the public hearing to be provided pursuant to Title 30-A, section 2528, subsection 5.

2. The municipal officers shall cause the question to be placed on the ballot in the following form: "Shall the voters of the (town or city) of _____ elect to withdraw from the Cobbossee Watershed District, with the withdrawal becoming effective at the conclusion of the district's current fiscal year?" The voters shall indicate by a cross or a check mark placed against the word "Yes" or "No" their opinion of the same.

3. If a majority of the registered voters casting a ballot on the withdrawal question elect to withdraw from the district, the withdrawal becomes effective at the conclusion of the district's fiscal year, but only if the total number of votes cast for and against withdrawal equal or exceed 15% of the total vote for all candidates for Governor cast in that municipality at the immediately preceding gubernatorial election.

4. If a majority of the registered voters casting a ballot on the withdrawal question do not elect to withdraw from the district, or if the total number of votes cast for and against the question is less than 15% of the total vote for all candidates for Governor cast by voters in that municipality at the immediately preceding gubernatorial election, the withdrawal process established by this section is not available to the municipality for a period of 2 years from the date of the unsuccessful withdrawal vote.

Sec. 17. Distribution of liabilities upon withdrawal. The district shall develop a process for equitably distributing the district's financial liabilities to a municipality that elects to withdraw from the district in accordance with section 16. The process must be developed not later than January 1, 1997.

See title page for effective date.

CHAPTER 60

H.P. 1201 - L.D. 1651

An Act Concerning the Seasonal Sale of Reformulated Gasoline

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

Sec. 1. Report. The Commissioner of Environmental Protection shall develop recommendations regarding the seasonal sale and geographic distribution of reformulated gasoline. In developing these recommendations, the commissioner shall

consult with members of the joint standing committee of the Legislature having jurisdiction over natural resource matters, the United States Environmental Protection Agency, members of the federal Ozone Transport Commission and similar professional and technical organizations and representatives of the oil industry and appropriate interested parties, in the consideration of the seasonal sale and geographic distribution of reformulated gasoline.

The commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by February 1, 1997 describing the commissioner's findings and proposing any required legislation.

See title page for effective date.

CHAPTER 61

H.P. 1317 - L.D. 1801

An Act to Provide for the 1996 and 1997 Allocations of the State Ceiling on Private Activity Bonds

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 10, section 363 and Private and Special Laws, 1995, chapter 21 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 1996, but leave a portion of the state ceiling unallocated and do not provide sufficient allocations for certain types of private activity bonds that may require an allocation prior to the effective date of this Act if not enacted on an emergency basis; and

Whereas, if these bond issues must be delayed due to lack of available state ceiling, the rates and terms under which these bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries or even unavailability of financing for certain 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. Allocation to the Treasurer of State. The \$10,000,000 of the state ceiling for calendar year 1996 previously allocated to the

Treasurer of State is no longer allocated to the Treasurer of State. Ten million dollars of the state ceiling for calendar year 1997 is allocated to the Treasurer of State to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 5.

Sec. 2. Allocation to the Finance Authority of Maine. The \$25,000,000 in state ceiling for calendar year 1996 previously allocated to the Finance Authority of Maine, plus an additional \$35,000,000, is allocated to the Finance Authority of Maine to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6 for calendar year 1996. Twenty-five million dollars of the state ceiling for calendar year 1997 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

Sec. 3. Allocation to the Maine Municipal Bond Bank. The \$10,000,000 of the state ceiling for calendar year 1996 previously allocated to the Maine Municipal Bond Bank remains allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7 for calendar year 1996. Ten million dollars of the state ceiling for calendar year 1997 is allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with Title 10, section 363, subsection 7.

Sec. 4. Allocation to the Maine Educational Loan Authority. The \$10,000,000 of the state ceiling for calendar year 1996 previously allocated to the Maine Educational Loan Authority, plus an additional \$15,000,000, is allocated to the Maine Educational Loan Authority for calendar year 1996. No portion of the state ceiling for calendar year 1997 is allocated to the Maine Educational Loan Authority.

Sec. 5. Allocation to the Maine State Housing Authority. The \$35,000,000 of the state ceiling for calendar year 1996 previously allocated to the Maine State Housing Authority, plus an additional \$10,000,000, is allocated to the Maine State Housing Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 4 in calendar year 1996. Forty-five million dollars of the state ceiling for calendar year 1997 is allocated to the Maine State Housing Authority for the same uses.

Sec. 6. Allocation to the Maine Educational Loan Marketing Corporation. The \$25,000,000 of the state ceiling for calendar year 1996 previously allocated to the Maine Educational Loan Marketing Corporation is reduced to \$10,000,000 in allocation to the Maine Educational Loan Marketing

Corporation to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 8 in calendar year 1996. Twenty-five million dollars of the state ceiling for the calendar year 1997 is allocated to the Maine Educational Loan Marketing Corporation to be used or reallocated in accordance with Title 10, section 363, subsection 8.

Sec. 7. Unallocated state ceiling. Thirty-five million dollars of the state ceiling for calendar year 1997 is unallocated and must be reserved for future allocation in accordance with applicable laws.

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

Effective March 25, 1996.

CHAPTER 62

H.P. 1181 - L.D. 1620

An Act to Amend the Charter of the East Boothbay Water District

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

Whereas, the East Boothbay Water District needs to upgrade the main power panel, the controls and a 3-phase power line; and

Whereas, the present borrowing capacity of the district is not large enough to finance the project; and

Whereas, it is essential that the work be completed as soon as possible in order to provide water service to the inhabitants of the district and to protect the present expenditures; 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. P&SL 1959, c. 132, §1, as amended by P&SL 1961, c. 37, §1, is further amended to read:

Sec. 1. Territorial limits; name; purposes. The territory comprising that part of the Town of Boothbay bounded and described as follows, to-wit: Commencing on the boundary line between Boothbay and Boothbay Harbor at a distance westerly along said line of 2,000 feet from the center line of the Beath

Road, thence continuing in a northerly direction to the intersection of the Beath Road with the road passing by the Country Club, which intersection is known as Houlton's Corner, thence continuing further in a northerly direction to the intersection of the River Road and Route 27, thence continuing in a northeasterly direction along the center line of the River Road to the north line of the Town of Boothbay, thence continuing in an easterly direction along the north line of the Town of Boothbay to the boundary line between Boothbay and Bristol in a northeasterly direction along the center line of Butler Road to the intersection of Butler Road with Pleasant Cove Road and Pension Ridge Road, thence continuing in a northerly direction along the center line of Pension Ridge Road to the intersection of Pension Ridge Road with Ambleside Road, thence continuing in a northeasterly direction along the center line of Ambleside Road to the end of Ambleside Road, thence continuing in a straight line further in a northeasterly direction through Pleasant Cove to the southwest point in the angle of the boundary line between Boothbay and Bristol at the end of Pleasant Cove, thence continuing in a generally southerly, westerly, northerly and westerly direction along the boundary line of Boothbay and Bristol and Boothbay and Boothbay Harbor to the point of beginning, and being all of the southeast portion of Boothbay, including Linekin Neck and the village of East Boothbay and the inhabitants of said towns within that area, are hereby created a body politic and corporate under the name of "East Boothbay Water District" for the purposes of supplying inhabitants and others in the district, said towns and the inhabitants of Boothbay Harbor located on both sides of Route 96 who live easterly of the cemetery and within 500 feet of said Route 96 with pure water for domestic, sanitary, commercial, industrial, agricultural and municipal purposes. All incidental rights, powers and privileges, necessary to the accomplishment of the main objects herein set forth, are hereby granted to the said East Boothbay Water District.

Sec. 2. P&SL 1959, c. 132, §6, 3rd and 4th ¶¶ are amended to read:

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof of the board in writing, designating the time and place and delivered in hand to the other 4 members, not less than 2 full days before the meeting. They may meet by agreement without such notice. They shall then organize by electing from their own number a chairman chair and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt by-laws and perform any other acts within the powers delegated to them by law. Following the appointment of the new trustees at each annual meeting of said district, the

trustees shall elect from their own number a ~~chairman~~ chair and a clerk and, not necessarily from their own number, a treasurer, ~~whose salary shall not exceed \$200,~~ to serve until the next annual meeting of said district and until their respective successors are elected and qualified. The trustees shall fix the salary of the treasurer but, if the treasurer is also a trustee, the compensation for any duties performed as treasurer must be in accordance with the Maine Revised Statutes, Title 35-A, section 6303.

The trustees from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who ~~shall~~ serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees ~~shall~~ approve, the cost ~~thereof~~ of the bond to be paid by the district. Members of the board of trustees ~~shall be~~ are eligible ~~to~~ for any office under the board. The trustees, ~~as such, shall receive as are entitled to compensation for their services an amount to be determined by them not to exceed \$50 each per year in accordance with the Maine Revised Statutes, Title 35-A, section 6303.~~

Sec. 3. P&SL 1959, c. 132, §11, first ¶, as amended by P&SL 1961, c. 234, is further amended to read:

For accomplishing the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, ~~said~~ the district, through its trustees, is authorized to borrow money temporarily and to issue therefore its negotiable notes; and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities whether incurred by the district or the Town of Boothbay, the district being authorized to reimburse ~~said~~ the town for any such expenses incurred by it, and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction, ~~said~~ the district, through its trustees, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine; provided, however, that the total indebtedness of the ~~said~~ district shall may not exceed the sum of \$475,000 at any one time outstanding, unless the district has obtained approval of a higher debt limit in accordance with this section; but bonds, notes or other evidences of indebtedness of the district ~~which that~~ have matured or otherwise become payable and for the payment of which adequate funds have been provided by deposit-

ing such funds with a paying or disbursing agent named in such bonds, notes or other evidences of indebtedness in trust for such purpose ~~shall may~~ not be considered to be outstanding.

Sec. 4. P&SL 1959, c. 132, §11, as amended by P&SL 1961, c. 234, is further amended by adding after the first paragraph the following new paragraphs to read:

Prior to issuing any debt on behalf of the district in an amount exceeding \$475,000, or any other amount approved by the voters pursuant to this section, the trustees shall propose a new debt limit for the district, which they must submit for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. The registrar of voters must be in session on the secular day next preceding the election. The town clerk of the town shall prepare the required ballots with the following question:

"Do you favor changing the debt limit of the East Boothbay Water District from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the municipal officers of the Town of Boothbay and due certificate of the results filed by the town clerk with the Secretary of State.

A debt limit proposal becomes effective immediately upon its acceptance by a majority of the legal voters within the district voting at the election. Failure of approval by the necessary majority of voters at the referendum does not prevent subsequent referenda from being held for the same purpose. The district may increase its debt limit to any amount and as often as approved by the legal voters within the district pursuant to this section.

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

Effective March 26, 1996.

CHAPTER 63

H.P. 1190 - L.D. 1631

An Act to Increase the Borrowing Capacity of the Ashland Water and Sewer District

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

Whereas, the Ashland Water and Sewer District needs to incur debt greater than that allowed under its current charter as soon as possible in order to finance certain necessary capital improvements to comply with the National Primary Drinking Water Regulations; 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. P&SL 1947, c. 78, §8, as amended by P&SL 1973, c. 178, §1, is further amended to read:

Sec. 8. Authorized to negotiate temporary loans and to issue notes and bonds; declared a quasi-municipal corporation; notes and bonds legal investments for savings banks. For accomplishing the purposes of this Act, ~~said~~ the water district, through its trustees, is authorized to borrow money temporarily; and to issue therefor the ~~interest-bearing~~ interest-bearing negotiable notes of the district, and for the purpose of refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this Act, including the expenses incurred in the creation of the district, of securing sources of supply, taking water and land, paying damages, laying pipes, constructing, maintaining and operating a water plant and sewerage and drainage system and making extensions, additions and improvements to the same; and the refunding of its obligations, the ~~said~~ district, through its trustees, may from time to time issue bonds of the district ~~to an amount not exceeding \$1,000,000 principal amount issued and outstanding at any one time.~~ Said notes and bonds shall be legal obligations of said district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 132 of chapter 49 of the revised statutes, and all the provisions of said section shall be applicable thereto. The said notes and bonds shall be exempt from taxation. Debt of the district that will not be fully repaid within 12 months of issuance may not

exceed \$2,000,000 issued and outstanding at any one time unless the district obtains approval of the voters of the district for a higher debt limit pursuant to this section.

Prior to issuing any debt on behalf of the district that will not be fully repaid within 12 months of issuance and that will cause the district to exceed the debt limit of \$2,000,000, the trustees shall propose a new debt limit for the district, which they must submit for approval in a district-wide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. The registrar of voters must be in session on the secular day next preceding the election. The town clerk of the town shall prepare the required ballots with the following question:

"Do you favor changing the debt limit of the Ashland Water and Sewer District from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the municipal officers of the Town of Ashland and due certificate of the results filed by the town clerk with the Secretary of State.

A debt limit proposal becomes effective immediately upon its acceptance by a majority of the legal voters within the district voting at the election. Failure of approval by the necessary majority of voters at the referendum does not prevent subsequent referenda from being held for the same purpose. The district may increase its debt limit to any amount and as often as approved by the legal voters within the district pursuant to this section.

Notes and bonds issued by the district in accordance with this section are legal obligations of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701, and all the provisions of that section are applicable to the district. The notes and bonds are exempt from taxation.

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

Effective March 26, 1996.

CHAPTER 64**H.P. 1230 - L.D. 1683**

**An Act to Establish the Town
Boundary between the Town of
Canaan and the Town of Cornville
and between the Town of Canaan
and the Town of Skowhegan Located
in the County of Somerset**

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

Sec. 1. Boundary line between the Town of Canaan and the Town of Cornville. The boundary line between the Town of Canaan and the Town of Cornville, both located in the County of Somerset, is as follows.

Beginning at a 9" x 12" granite stone found at the northeast corner of the Town of Skowhegan and the southeast corner of the Town of Cornville as described in Private and Special Law 1993, chapter 14, said stone is scribed "C" on the north side, "H" on the east side, "S" on the south side and "TL 1846" on the west side.

Thence N 11°-39'-09" W, passing through the several monuments identified on the plan hereinafter referenced, a distance 10,468.13 feet to a granite stone located in the easterly line of the Town of Cornville at the northwest corner of the Town of Canaan.

Bearings referenced in the above description are orientated to Grid North, Maine State Coordinate System, West Zone NAD 1983 as calculated from a control network established by G.P.S. observations.

The above described boundary being the same as shown on a plan entitled, "SURVEY OF THE MUNICIPAL BOUNDARY BETWEEN THE TOWNS OF CANAAN AND CORNVILLE," dated December 26, 1995, prepared by Smith's Land Surveys, Inc. recorded in the Somerset Registry of Deeds.

Sec. 2. Boundary line between the Town of Canaan and the Town of Skowhegan. The boundary line between the Town of Canaan and the Town of Skowhegan, both located in the County of Somerset, is as follows.

Beginning at a 9" x 12" granite stone found at the northeast corner of the Town of Skowhegan and the southeast corner of the Town of Cornville as described in Private and Special Law 1993, chapter 14, said stone is scribed "C" on the north side, "H" on the east side, "S" on the south side and "TL 1846" on the west side.

Thence S 12°-43'-35" E, passing through the two monuments identified on the plan hereinafter referenced, a distance of 3,900.17 feet to a granite stone found on the northerly side of a road locally known as the Notch Road.

Thence S 12°-40'-30" E, passing through the three monuments identified on the plan hereinafter referenced, a distance of 4,254.00 feet to a granite stone found, said stone is scribed "TL" on the north side.

Thence S 78°-54'-36" W a distance of 1,428.96 feet to a granite stone found, said stone is scribed "1870" on the west side and "TL" on the north side.

Thence S 11°-30'-45" E, passing through several monuments identified on the plan hereinafter referenced, a distance of 5,692.66 feet to a granite stone found near the northerly shore of Lake George, said stone is scribed "TL" on the southeasterly side.

Thence S 11°-49'-42" E, passing through two monuments identified on the plan hereinafter referenced, a distance of 7,294.07 feet to a granite stone found near the southerly shore of Lake George.

Thence S 11°-32'-27" E, passing through the one monument identified on the plan hereinafter referenced, a distance of 1,518.67 feet to a granite stone found on the southeasterly side of a road locally known as the Oak Pond Road.

Thence S 11°-57'-31" E, passing through the one monument identified on the hereinafter referenced plan, a distance of 2,311.24 feet to a granite stone found.

Thence N 80°-37'-41" W a distance of 307.81 feet to a granite stone found.

Thence S 10°-19'-31" W a distance of 393.94 feet to a granite stone found on the southwesterly side of a road locally known as the Moores Mills Road.

Thence S 09°-45'-41" W passing through the two monuments shown on the plan hereinafter referenced, a distance of 4,855.00 feet to a 3/4-inch iron rebar set in the ground, said rebar is 5 feet long and is topped with an aluminum cap inscribed "CANAAN TOWN LINE 1995 SKOWHEGAN."

Thence continuing S 09°-45'-41" W to the center line of Oaks Brook.

Bearings referenced in the above description are orientated to Grid North, Maine State Coordinate System, West Zone NAD 1983 as calculated from a control network established by G.P.S. observations.

The above described boundaries being the same as shown on a plan entitled, "SURVEY OF A PORTION OF THE MUNICIPAL BOUNDARY BETWEEN

THE TOWNS OF CANAAN AND SKOWHEGAN," dated December 26, 1995, prepared by the Smith's Land Surveys, Inc. recorded in the Somerset County Registry of Deeds.

See title page for effective date.

CHAPTER 65

S.P. 679 - L.D. 1745

An Act to Establish the Boundary Line between the Town of Cornville and the Towns of Solon and Athens

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

Sec. 1. Boundary line between the Town of Cornville and the Town of Solon. The boundary line between the Town of Cornville and the Town of Solon, both located in the County of Somerset, is as follows:

Beginning at a stone found set in the ground at or near the northeast corner of the Town of Madison. Said stone is scribed "T L/M.C." on the south side and "S" on the north side; and

Thence S 81°-58'-41" E passing through the several monuments identified on the plan hereinafter referenced, a distance of 8,032.88 feet to a stone found set in the ground at the southeast corner of the Town of Solon. Said stone is scribed "Nov. 24, 1846 1867" on the west side and "Nov. 10, 1846 / Oct. 12, 1857" on the east side.

Sec. 2. Boundary line between the Town of Cornville and the Town of Athens. The boundary line between the Town of Cornville and the Town of Athens, both located in the County of Somerset, is described as follows:

Beginning at a stone located at the southeast corner of the Town of Solon. Said stone is the same described in section 1;

Thence S 81°-53'-00" E, passing through the several monuments identified on the plan hereinafter referenced, a distance of 5,346.50 feet to a stone located on the easterly side of the road leading from Route 150 to West Athens. Said stone is scribed "T L Nov. 9 1867" on the west side;

Thence S 81°-53'-00" E, passing through the one monument identified on the plan hereinafter referenced, a distance of 1,279.85 feet to a 3/4 inch iron rebar topped with a yellow plastic survey cap inscribed "S D Smith PLS 1354" set on the westerly side of Route 150, so-called;

Thence S 82°-03'-01" E, passing through several monuments identified on the plan hereinafter referenced, a distance of 7,441.20 feet to a granite monument scribed "T L" located on the westerly side of a road locally known as the East Ridge Road;

Thence S 82°-32'-11" E, passing through the 2 monuments identified on the plan hereinafter referenced, a distance of 4,031.56 feet to a 3/4 inch iron rebar topped with an aluminum cap inscribed "ATHENS/TOWN LINE/1994/CORNVILLE" located on the northeasterly side of the road leading from the Town of Athens to the Town of Hartland; and

Thence S 81°-58'-01" E, passing through the several monuments identified on the plan hereinafter referenced, a distance of 6,971.50 feet to a granite stone set in the ground. Said stone is to mark the northeasterly corner of the Town of Cornville.

Bearings recited in the above description are orientated to a 1994 observation of magnetic North.

The boundaries described within are the same shown on a plan entitled "SURVEY OF THE TOWN LINE BETWEEN THE TOWN OF CORNVILLE AND THE TOWNS OF SOLON AND ATHENS" dated January 17, 1995, prepared by Smith's Land Surveys, Inc. and recorded in the Somerset County Registry of Deeds in the Cornville Plan File B-92, Page 122.

See title page for effective date.

CHAPTER 66

S.P. 706 - L.D. 1805

An Act to Amend the Charter of the Somerset Woods Trustees in Order to Qualify the Charter as a Charitable Corporation under Internal Revenue Service Rules

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

Sec. 1. P&SL 1927, c. 109, §§3 and 4 are amended to read:

Sec. 3. Exempt from taxation. All property held by ~~said~~ the corporation ~~shall be~~ is exempt from taxation. The activities and purposes of the corporation are limited to those permitted a corporation exempt from federal income tax under the Internal Revenue Code, Section 501(c)(3).

Sec. 4. Dividends prohibited; income, how expended. ~~Said~~ The corporation ~~shall never~~ may not make ~~any~~ a dividend or division of or from its property or income among its members, but the net

income and proceeds from any part of ~~said~~ its property ~~shall~~ must be expended for public benefits, not supported by taxation, in the town where ~~said~~ the land from which ~~said~~ the income or proceeds ~~shall be~~ are derived is located. A member, trustee, director or officer of the corporation may not receive any portion of the net earnings or assets of the corporation, and a private individual may not receive any of these earnings or assets except as reasonable compensation for services rendered. In the event of dissolution, all of the remaining net assets of the corporation must be distributed to a governmental entity or to another corporation exempt from federal income taxation under the Internal Revenue Code, Section 501(c)(3).

Sec. 2. P&SL 1927, c. 109, §§5 to 7 are enacted to read:

Sec. 5. Lobbying prohibited. The corporation may not attempt to influence legislation except as authorized by the Internal Revenue Code, Section 501(h) and may not participate in the political campaign of a candidate for public office.

Sec. 6. Tax rules. In any taxable year in which the corporation is a private foundation as described in the Internal Revenue Code, Section 509(a), the corporation must distribute its income so it is not subject to tax under the Internal Revenue Code, Section 4942. The corporation may not:

1. Engage in an act of self-dealing as defined in the Internal Revenue Code, Section 4941(d);

2. Retain excess business holdings as defined in the Internal Revenue Code, Section 4943(c);

3. Make investments that would subject the corporation to tax under the Internal Revenue Code, Section 4944; or

4. Make a taxable expenditure as defined in the Internal Revenue Code, Section 4945(d).

Sec. 7. General conduct. The corporation shall conduct its affairs so that it remains exempt from taxation under federal law, including rules promulgated in accordance with the Internal Revenue Code.

See title page for effective date.

CHAPTER 67

S.P. 658 - L.D. 1718

An Act to Repeal and Replace the Charter of Bowdoin College

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

Whereas, changes in the Charter of Bowdoin College are necessary to consolidate the governance of the college into one board and to make certain other changes; and

Whereas, it is essential that these changes be enacted as soon as possible since it is necessary that this legislation also be enacted by the General Court of the Commonwealth of Massachusetts due to the provisions of the Articles of Separation; 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. The Charter of Bowdoin College, Mass. Laws of 1794, c. 12, as amended by PL 1977, c. 690, §16, is repealed and the following enacted in its place:

Sec. 1. There is established in the Town of Brunswick, Maine, a college for the purpose of education under the name of Bowdoin College, to be under the governance of a Board of Trustees, as hereafter provided.

Sec. 2. The College shall be governed by a Board of Trustees with a minimum number of thirty-five (35) and a maximum number of fifty-six (56), including the President as a Trustee, until the year 2005 and thereafter with a minimum number of thirty-five (35) and a maximum number of forty-five (45), including the President as a Trustee.

Sec. 3. For the more orderly conducting the business of the College, the Board of Trustees shall have full power and authority, from time to time, to elect a chair and a vice-chair from among their number and a President, a Treasurer and a Secretary and such other officers as the Board deems necessary; to declare the tenures and duties of their respective offices; and to elect Trustees for such terms and upon such conditions as they may from time to time determine, and also to remove any Trustee when, in their judgment, such Trustee becomes incapable or neglects or refuses to perform the duties of the office.

Sec. 4. The College may have one common seal; and that all deeds signed and delivered by the Treasurer, or by such other officer as the Trustees may from time to time appoint, and sealed with its seal, by

order of the Trustees, shall, when made in the corporate name, be considered in law as the deeds of the College; and that the College may sue and be sued in all actions, real, personal or mixed and may prosecute and defend the same to final judgment and execution; and that the College shall be capable of having, holding and taking, in fee simple or any less estate, by gift, grant, devise or otherwise any lands, tenements or other estate, real or personal.

Sec. 5. The College shall have full power and authority to determine at what times and places its meetings shall be held and on the manner of notifying the Trustees to convene at such meetings, and also, from time to time, to elect such Professors and other officers as it shall judge most for the interest thereof, and to determine the duties, salaries, emoluments and tenures of their several offices aforesaid; and also to purchase, or erect and keep in repair, such houses and other buildings as it shall judge necessary for the College; and also to make and ordain, as occasion may require, reasonable rules, orders and bylaws, not repugnant to the laws of this State, with reasonable penalties, for the good government of the College; and also to determine and prescribe the mode of ascertaining the qualifications of the students requisite to their admission; and also to confer such degrees as are usually conferred by universities established for such education; and a majority of the Trustees present at any legal meeting shall decide all questions that may properly come before them.

Sec. 6. The clear rents, issues and profits of all the estate, real and personal, of which the College shall be seized or possessed shall be appropriated to the endowment of the College in such manner as shall most effectually promote virtue and piety, and the knowledge of such of the languages, and of the useful and liberal arts and sciences.

Sec. 7. The Treasurer of the College shall give bond to the College, in such amount and with such sureties as the Trustees shall approve of, conditioned for the faithful discharge of the duties of the said office and for rendering a just and true account of the doings therein, when required, and that all the monies, securities and other property of the College, together with all the books in which the accounts and proceedings, as Treasurer, were entered and kept, that appertain to the office of Treasurer as aforesaid, shall, upon demand, be paid and delivered over to the successor in that office; and all monies to be recovered by virtue of any suits at law, upon such bond, shall be paid over to the College.

Sec. 2. Effective date. This Act takes effect when approved for the purpose of its submission to the General Court of Massachusetts for its concurrence. It takes effect for all purposes when a certificate is filed with the Secretary of State certifying

that the General Court of Massachusetts has granted its concurrence.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect in accordance with the section of this Act that specifies an effective date.

Effective April 1, 1996, unless otherwise indicated.

CHAPTER 68

S.P. 682 - L.D. 1747

An Act to Authorize the Maine Photographic Workshops to Grant Degrees

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

Sec. 1. Degree. The Maine Photographic Workshops may confer the Associate of Arts degree or Master of Fine Arts degree on all students who successfully complete the course of study prescribed by the school.

See title page for effective date.

CHAPTER 69

H.P. 1333 - L.D. 1828

An Act to Transfer Land from the Town of Brownfield to the Town of Hiram

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. Land transferred to the Town of Hiram from the Town of Brownfield. That portion of the Town of Brownfield that lies south and east of the northerly boundary of the right-of-way of Notch Road, as it exists on the effective date of this Act, is transferred to the Town of Hiram.

Sec. 2. Effective date. This Act takes effect upon the approval by the voters of the Town of Brownfield of the transfer of the land described in section 1 of this Act to the Town of Hiram. Upon the approval of the voters, the clerk of the Town of Brownfield shall provide notice of the vote to the Secretary of State.

See title page for effective date, unless otherwise indicated.

CHAPTER 70

H.P. 1342 - L.D. 1837

An Act to Establish Municipal Cost Components for Unorganized Territory Services to Be Rendered in Fiscal Year 1996-97

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. 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 1996-97 is as follows:

Audit - Fiscal Administration	\$108,207
Education - Operations	9,712,903
Forest Fire Protection	200,000
Human Services - General Assistance	88,601
Property Tax Assessment - Operations	470,630
Maine Land Use Regulation Commission - Operations	158,170

TOTAL STATE AGENCIES	\$10,738,511
County reimbursements for services:	
Aroostook	\$570,516
Franklin	266,472
Hancock	14,815
Oxford	253,805
Penobscot	577,622
Piscataquis	352,145
Somerset	606,032
Washington	301,066

TOTAL COUNTY SERVICES	\$2,942,473
TOTAL REQUIREMENTS	\$13,680,984
COMPUTATION OF ASSESSMENT	
Requirements	\$13,680,984
Less Deductions:	
General -	
State Revenue Sharing	\$170,000
Miscellaneous	100,000
Transfer from undesignated fund balance	2,100,000
TOTAL	\$2,370,000
Educational -	
Lands Reserved Trust	\$100,000
Tuition/Travel	165,000
Miscellaneous	1,500
Special - Retirement	130,000
Brookton School Closure	130,000
TOTAL	\$526,500

TOTAL DEDUCTIONS	(\$2,896,500)
TAX ASSESSMENT	\$10,784,484

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

Effective April 2, 1996.

CHAPTER 71**S.P. 716 - L.D. 1817**

**An Act to Provide a Contingent
Allocation to Establish a Federally
Funded Military Rebuild Site to be
Operated by the Maine National
Guard at the former Loring Air
Force Base**

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

Whereas, the Maine National Guard has submitted a proposal to the United States Department of Defense, National Guard Bureau to establish a federally funded depot-level military rebuild site at the former Loring Air Force Base maintenance building; and

Whereas, if this proposal is accepted, the employees of such a facility will be required to be state employees, although the State will be 100% federally reimbursed; and

Whereas, if this proposal is accepted the facility may be established in the immediate future and it will be necessary to have the means available to hire such employees; and

Whereas, the economic health of the State and Aroostook County in particular will greatly benefit if this facility is established and a prerequisite to such a facility is the establishment of an employee system; 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. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

	1995-96	1996-97
DEFENSE AND VETERANS' SERVICES, DEPARTMENT OF		
Loring Rebuild Facility		
Positions - Other Count	(41.0)	(41.0)
Personal Services	\$359,139	\$1,684,979

All Other	315,000	315,000
Capital Expenditures	35,000	35,000

Allocates additional federal funds for the Loring Rebuild Facility. This allocation includes funds for one Manager position, 2 Automotive and Heavy Equipment Supervisor positions, one Production Controller position, 3 Tool and Parts Attendant positions, one Clerk Typist II position, 4 Automotive and Heavy Equipment Supervisor positions, 9 Automotive and Heavy Equipment Mechanic positions, 9 Automotive and Heavy Equipment Worker positions, 6 Equipment Worker positions and 5 General Laborer positions and capital equipment including computer equipment and peripherals, telephone equipment, special tools and off-ramp upgrade.

**DEPARTMENT OF DEFENSE
AND VETERANS' SERVICES
TOTAL**

\$709,139	\$2,034,979
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 3, 1996.

CHAPTER 72**S.P. 758 - L.D. 1870**

**An Act to Authorize Casco Bay
College to Grant Degrees**

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

Sec. 1. P&SL 1973, c. 107 is repealed and the following enacted in its place:

Sec. 1. Associate of Science degree. Casco Bay College may confer Associate of Science degrees upon all who satisfactorily complete the courses of

instruction as the directors of the corporation may from time to time prescribe.

See title page for effective date.

CHAPTER 73

H.P. 1325 - L.D. 1815

An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1997

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

Sec. 1. Allocation. Gross revenues of the Maine Turnpike Authority for the fiscal year ending December 31, 1997 must be segregated, apportioned and disbursed as designated in the following schedule.

1997

MAINE TURNPIKE AUTHORITY

Administration

Personal Services	\$468,150
All Other	1,227,281
TOTAL	1,695,431

Accounts and Controls

Personal Services	467,545
All Other	260,019
TOTAL	727,564

Highway Maintenance

Personal Services	2,748,905
All Other	1,997,667
TOTAL	4,746,572

Garages

Personal Services	633,418
All Other	1,035,685
TOTAL	1,669,103

Fare Collection

Personal Services	6,301,887
All Other	3,241,383
TOTAL	9,543,270

Public Safety and Special Services

Personal Services	178,709
All Other	3,805,084
TOTAL	3,983,793

Building Maintenance

Personal Services	654,294
All Other	497,076
TOTAL	1,151,370

MAINE TURNPIKE AUTHORITY TOTAL REVENUE FUNDS

\$23,517,103

Sec. 2. Transfer of allocations. Any balance of an allocation or subdivision of an allocation made by the Legislature for the Maine Turnpike Authority that at any time is not required for the purpose named in the allocation or subdivision may be transferred at any time prior to the closing of the books to any other allocation or subdivision of any allocation made by the Legislature for the use of the Maine Turnpike Authority for the same fiscal year subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters. Financial statements describing the transfer must be submitted by the Maine Turnpike Authority to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial 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.

Sec. 3. Encumbered balance at year-end.

At the end of each fiscal year, encumbered balances may be carried to the next fiscal year.

Sec. 4. Supplemental information. The Maine Turnpike Authority has submitted the following statement, for information purposes, regarding the revenues in 1997 that are necessary for capital expenditures and reserves and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority.

Debt Service Fund	\$6,796,401.00
Subordinate Debt Service Fund	-0-
Debt Service Reserve Fund	-0-
Reserve Maintenance Fund	8,000,000.00
Transfers to General Reserve Accounts for Capital Expenditures	2,557,422.37
M.D.O.T. Transfers	4,700,000.00
TOTAL	\$22,053,823.37
See title page for effective date.	

CHAPTER 74

H.P. 1194 - L.D. 1638

An Act to Revise the Charter of the Boothbay Harbor Water 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, the boundary of the service area of the Boothbay Harbor water system needs clarification; and

Whereas, consumers within the service area clarified by this Act are desirous of service; and

Whereas, a grant may be available to assist with the costs of providing service to those consumers this 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. P&SL 1895, c. 56, as amended by P&SL 1993, c. 38, §§1, 2 and 3, is repealed.

Sec. 2. Authority to convey, sell and purify water; authority to convey wastewater; service area. The Town of Boothbay Harbor is authorized and empowered to take water from Adams Pond in the Town of Boothbay or from any other ponds or supply in the Boothbay Harbor water system service area, sufficient for all domestic, sanitary, municipal and commercial purposes, to perform such operations and procedures as may be necessary to ensure the purity of any water so taken, including constructing and operating water treatment and purification facilities, and to take and convey the water, through the Boothbay Harbor water system service area. The town, acting through its board of water commissioners, is also authorized and empowered to sell water to the towns in the Boothbay Harbor water system service area, including the Town of Boothbay, and to any company, individual, firm or corporation in the Boothbay Harbor water system service area. The town is also authorized to convey through the towns of Boothbay, Boothbay Harbor and Southport such wastewater as may be produced in the operation of any water treatment or purification facility.

The Boothbay Harbor water system service area includes the area bounded and described as follows:

That part of the Town of Boothbay commencing on the boundary line between Boothbay and Boothbay Harbor at a distance westerly along said line of 2,000 feet from the center line of the Beath Road, thence continuing in a northerly direction to the intersection of the Beath Road with the road passing by the Country Club, which intersection is known as Houlton's Corner, thence continuing in a northeasterly direction along the center line of Butler Road to the intersection of Butler Road with Pleasant Cove Road and Pension Ridge Road, thence continuing in a northerly direction along the center line of Pension Ridge Road to the intersection of Pension Ridge Road with Ambleside Road, thence continuing in a northeasterly direction along the center of Ambleside Road to the end of Ambleside Road, thence continuing in a straight line further in a northeasterly direction through Pleasant Cove to the southwest point in the angle of the boundary line between Boothbay and Bristol at the end of Pleasant Cove, thence continuing in a generally northerly, westerly, southerly, and easterly direction along the boundary lines of Boothbay and Bristol, Boothbay and Edgcomb, Boothbay and Westport and Boothbay and Boothbay Harbor to the point of beginning. The Boothbay Harbor water system service area also includes the towns of Boothbay Harbor and Southport, the Village Corporation of Squirrel Island, Mouse Island and other adjacent islands.

Sec. 3. Powers. The Town of Boothbay Harbor has the power and is authorized to survey for,

lay, erect and maintain suitable dams, reservoirs, aqueducts, pipes, hydrants, buildings, treatment or purification plants, pumping equipment and fixtures for flowage, power, pumping its water supply or conveying wastewater produced in the operation of a treatment or filtration facility through its mains; to enter upon any land or public way for laying, erecting and maintaining the pipes and structures, and to make surveys for those purposes; and to pass over, excavate and flow any lands. The town is authorized to take and hold for public uses by purchase, eminent domain or otherwise, any land that may be necessary for supplying, treating or purifying water; conveying wastewater; laying and maintaining its pipelines and constructing other structures; preserving the purity of its watershed; and ensuring the purity of its water supply. The town is also authorized to take and hold in the same manner any land that may be necessary for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and land. The town may hold all real estate and personal property necessary or convenient for these purposes.

The town is authorized to issue its general obligation securities for the purposes of this Act in such amounts and upon such terms as it may for municipal purposes under the Maine Revised Statutes, Title 30-A, section 5772. Any bond, security, note or other debt instrument lawfully issued by the Town of Boothbay, its municipal officers or its board of water commissioners for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid and is governed by applicable law and the terms of the debt instrument.

Sec. 4. File plan of location in registry of deeds; file statement of damages. The Town of Boothbay Harbor shall file in the registry of deeds for Lincoln County, plans and descriptions of the location of all the lands and water rights taken under the provisions of this Act, and entry may not be made upon any land, except to make surveys, until the expiration of 10 days from the filing. With the plan, the town may file a statement of the damages it is willing to pay to any person for any property or property rights taken. If the amount finally awarded does not exceed that sum, the town may recover costs against a person, otherwise that person may recover costs against the town. Within 30 days after the filing of the plans and descriptions, the town shall publish notice of the taking and filing in a newspaper in the county, the publication to be continued 3 weeks successively.

Sec. 5. Liable for all damages; damages ascertained in case of disagreement. The Town of Boothbay Harbor must be held liable to pay all legal damages that are sustained by any person by the taking of that person's land, water rights or other

property, by flowage or by excavating through any land for the purpose of laying down pipes and aqueducts or building dams and reservoirs. If a person sustaining damages and the town are unable to agree upon the sum to be paid for the damages, the person or the town, within 12 months after the filing of the plans and location, may apply to the commissioners of Lincoln County. The commissioners of Lincoln County shall have the damages assessed in the same manner and under the same conditions, restrictions, limitations and rights of appeal as are by law prescribed in the case of damages for the laying out of highways, so far as the law is consistent with the provisions of this Act. The failure to make an application within 12 months is deemed to be a waiver of all right to claim damages.

Sec. 6. Authorized to make contract with any water company for sale or lease of any system of works. The Town of Boothbay Harbor is authorized and empowered to enter into contracts with any duly organized water company for the sale or lease to the water company of any system of waterworks owned by the town on such terms and subject to such conditions as a majority of the voters of the town at a legal meeting called for that purpose may prescribe. Any contract lawfully entered into by the Town of Boothbay Harbor for the purposes of the Boothbay Harbor water system prior to the effective date of this Act is valid.

Sec. 7. Board of water commissioners, duties, compensation; town manager, powers, duties. The Town of Boothbay Harbor may elect by ballot a board of water commissioners consisting of 3 members who serve staggered terms of 3 years. At the first election, the water commissioner who receives the largest number of votes shall hold office for 3 years; the water commissioner who receives the next largest number of votes cast shall hold office for 2 years; and the water commissioner who receives the next largest number of votes cast shall hold office for one year. After the initial election one commissioner is elected annually in the month of May to serve a term of 3 years. The water commissioners shall serve until their successors are elected and qualified. If a commissioner resigns from office before the expiration of that commissioner's term or is otherwise unable to complete that term, the remaining 2 commissioners may appoint a new commissioner, with the approval of the municipal officers, to complete the term of the departed commissioner. The 2 remaining commissioners must agree on the appointment in order to exercise their appointment authority. The commissioners are authorized to fix the water rates and determine the conditions and the manner of the water supply and have the general control and management of the water system owned by the town. The commissioners are entitled to receive such compensation for their services as may be fixed by the town. When the

town votes to employ a town manager, but not in union with one or more other towns, the town manager is the administrative head of the water system and is responsible to the water commissioners. The town manager's powers and duties in connection with the water system are the same as in the management of the municipal affairs of the town, so far as applicable. Purchases and disbursements are made by the town manager on vouchers signed by a majority of the commissioners.

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

Effective April 8, 1996.

CHAPTER 75

H.P. 1361 - L.D. 1869

An Act to Increase the Debt Limit of the Madawaska Water District

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

Sec. 1. P&SL 1953, c. 17, §11, first ¶, as amended by P&SL 1989, c. 94, §2, is further amended to read:

For accomplishing the purposes of this act and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, subject to the provisions of the Maine Revised Statutes, Title 35-A, section 6304, is authorized to issue its notes and bonds in one series or in separate series from time to time and to make subsequent renewals of the same in whole or in part to an amount not exceeding the sum of ~~\$500,000, \$1,500,000~~ outstanding at any one time, unless the district obtains approval of the voters of the district for a higher debt limit pursuant to this section. Said notes and bonds ~~shall be~~ are the legal obligation of said district, which is hereby declared to be a ~~quasimunicipal~~ quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701, as amended, and all provisions of said section ~~shall be~~ are applicable ~~thereto, said~~ to those notes and bonds. ~~The notes and bonds shall be~~ are a legal investment for savings banks in the State of Maine, and ~~shall be~~ are exempt from all present taxes. The said district may refund and reissue, subject to the provisions of the Maine Revised Statutes, Title 35-A, section 6304, from time to time, any of its notes and bonds and other evidence of indebtedness. Each bond or note ~~shall~~ must have inscribed on its face the words "Madawaska Water District Bond," or "Madawaska Water District Note," as the case may be, and ~~shall bear~~ bears interest

at such rates as the trustees ~~shall~~ determine. ~~If said bonds be issued from time to time, The district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness and each authorized issue shall constitute~~ constitutes a separate loan. Each loan ~~shall be~~ is payable in annual amounts of principal, beginning not more than one year from its date and ~~made to run~~ runs for such period as said trustees ~~shall~~ determine.

Sec. 2. P&SL 1953, c. 17, §11, as amended by P&SL 1989, c. 94, §2, is further amended by adding after the first paragraph the following new paragraphs to read:

In order to establish a higher debt limit for the district, the trustees shall propose a new debt limit for the district, which the trustees shall submit for approval in a districtwide referendum. The referendum must be called, advertised and conducted according to the law relating to municipal elections, except that the registrar of voters is not required to prepare or the town clerk to post a new list of voters. For the purpose of registering voters, the registrar of voters must be in session on the regular workday preceding the election. The town clerk of the Town of Madawaska shall prepare the required ballots with the following question:

"Do you favor changing the debt limit of the Madawaska Water District from (insert current debt limit) to (insert proposed debt limit)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion on the question.

The results must be declared by the municipal officers of the Town of Madawaska and due certificate of the results filed by the town clerk with the Secretary of State.

A debt limit proposal becomes effective immediately upon its acceptance by a majority of the legal voters within the district voting at the election. Failure of approval by the necessary majority of voters at the referendum does not prevent subsequent referenda from being held for the same purpose. The district may increase its debt limit to any amount or as often as approved by the legal voters within the district pursuant to this section.

Sec. 3. P&SL 1953, c. 17, §13 is repealed and the following enacted in its place:

Sec. 13. Rates. The rates established pursuant to this section must be sufficient to provide revenue for the purposes of this Act and for all other purposes of the district, without the need for any financial assistance from the Town of Madawaska, other than the normal payment of water charges for services ren-

dered. Individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer or other designated officer of the district the rates established by the board of trustees for the water service provided to them. The rates must be established in accordance with the Maine Revised Statutes, Title 35-A, chapter 61.

See title page for effective date.

CHAPTER 76

H.P. 1255 - L.D. 1724

An Act to Clarify the Distribution of Funding for the Maine School of Science and Mathematics

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

Whereas, funds are needed before the close of the current fiscal year to ensure the proper operation of the Maine School of Science and Mathematics; 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. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1995-96	1996-97
EDUCATION, DEPARTMENT OF		
Magnet Schools		
All Other	\$234,000	(\$234,000)
Provides funds for the Maine School of Science and Mathematics for fiscal year 1995-96 by deappropriations in fiscal year 1996-97.		
Notwithstanding the Maine Revised Statutes, Title 20-A, section 8202, subsection 2, amounts appropriated for fiscal years 1995-96 and 1996-97 for the Maine		

School of Science and Mathematics may be disbursed to and expended by the school.

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

Effective April 10, 1996.

CHAPTER 77

S.P. 740 - L.D. 1848

An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 for Major Improvements at State Park and Historic Site Facilities

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 major improvements at state park and historic site facilities.

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

Sec. 1. Authorization of bonds to provide for major improvements at state park and historic site facilities. 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 \$3,000,000 to raise funds for major improvements at state park and historic site facilities, specifically renovations needed to make state parks and historic sites accessible to people with disabilities according to standards set by state and federal law, completion of the roof and masonry restoration at Fort Knox State historic Site and the replacement of Churchill Dam in the Allagash Wilderness Waterway, 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. 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. 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 Act. 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. 4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. 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 Director of the Bureau of Parks and Lands.

Sec. 6. Allocations from General Fund bond issue; major improvements at state park and historic site facilities. The proceeds of the sale of bonds must be expended as designated in the following schedule.

DEPARTMENT OF CONSERVATION

Bureau of Parks and Lands \$3,000,000

Provides funds for major capital improvements at state park and historic site facilities, specifically renovations needed to make state parks and historic sites accessible to people with disabilities, completion of roof and masonry restoration at Fort Knox State Historic Site and the replacement of Churchill Dam in the Allagash Wilderness Waterway.

Sec. 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 Act.

Sec. 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. 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 Act, 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. 10. Referendum for ratification; submission at general election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine at the next general election in the month 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 general election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$3,000,000 bond issue to make capital improvements at state parks and historic sites?"

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 Act, the Governor shall proclaim the result without delay, and the Act 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 Act necessary to carry out the purpose of this referendum.

Effective pending referendum.

CHAPTER 78

H.P. 1349 - L.D. 1850

An Act to Clarify the Retirement Status of Certain Employees of the Child Development Services System

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

Whereas, in 1986, the 16 county projects established to aid in the coordination of the provision of services to preschool handicapped children were combined as the Child Development Services System, or "CDS"; and

Whereas, CDS was created, in part, to establish a central employer for CDS staff, and, so structured, CDS met the definitional requirements and elected to become a participating local district of the Maine State Retirement System; and

Whereas, CDS staff who had previously earned service credit in the Maine State Retirement System state and teacher plan were permitted to bring that service credit with them to be considered as service credit earned in CDS; and

Whereas, amendments to the laws governing the CDS changed its structure so that CDS no longer met the definitional requirements to be a participating local district of the Maine State Retirement System; and

Whereas, current applicable Maine State Retirement System laws require that, when a participating local district ceases to exist, funds in the retirement account of the participating local district are allocated to the employees in a manner that effectively defeats earlier legislative intent permitting state and teacher plan service credit to be considered as service credit earned in CDS as a participating local district service credit; and

Whereas, enactment of specific provisions governing the distribution of CDS participating local district funds would preserve the earlier legislative intent with respect to affected CDS employees while incurring no additional liability cost to the state and teacher plan; 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. Distributions to employees as the result of Child Development Services System no longer meeting requirements to be a participating local district. Since the Child Development Services System's status as a participating local district of the Maine State Retirement System ended June 30, 1992, employer and employee contributions and earnings on those contributions held by the Maine State Retirement System on behalf of Child Development Services System as a participating

local district and its employees must be distributed in accordance with the following:

1. The following general provisions apply.

A. Unless specifically provided otherwise, all calculations for lump-sum distributions and transfers of full actuarial values and related service credit under this section must be made on the basis of service credit and average final compensation as of June 30, 1992.

B. A person entitled to make an election under this section must make that election not later than May 1, 1996 in accordance with procedures established by the Maine State Retirement System. If a person fails to make the election by the deadline, the person must be treated as if the person had elected subsection 2, paragraph B, subparagraph (3).

C. The value of the assets of Child Development Services System as a participating local district must be established as of June 1, 1996. Distributions under this section must be made no later than June 30, 1996.

D. A person who elects under this section to transfer service credit to the retirement system's state and teacher plan and who later becomes eligible to take a refund is entitled to a refund in the amount of the person's employee contributions and interest earned on the contributions.

E. A person covered by this section who, after June 30, 1992 and prior to the effective date of this Act, has received a refund of contributions and interest and who is entitled to make the election under subsection 2, paragraph B and who elects either subsection 2, paragraph B, subparagraph (1) or (2) must repay in full to the retirement system the total amount of the refunded contributions and interest, plus interest on the refunded amount accrued between the date the refund was issued and the date the repayment was made. The repayment must be made in full no later than May 1, 1996.

F. The retirement system will contact and assist persons to whom this section applies to understand the distribution or distribution elections available under this section to each person.

2. Distribution elections are as follows.

A. A person who on June 30, 1992 was a Maine State Retirement System member by virtue of employment by Child Development Services System as a participating local district and who, on the effective date of this Act, is an employee of Child Development Services System or was a

former employee of Child Development Services System, and whose service credit under Child Development Services System as a participating local district does not include any service credit earned initially under the retirement system's state and teacher plan and subsequently transferred to Child Development Services System as a participating local district to be considered as service credit earned under Child Development Services System's participating local district plan receives a lump-sum distribution calculated on the basis of the person's service credit earned under the Child Development Services System's participating local district plan and average final compensation based on compensation earned under the Child Development Services System's participating local district plan, less any distribution of employee contributions and interest already made to the person as a refund subsequent to June 30, 1992.

B. A person who on June 30, 1992 was a Maine State Retirement System member by virtue of employment by Child Development Services System as a participating local district and who, on the effective date of this Act, is an employee of Child Development Services System or was a former employee of Child Development Services System, and whose service credit under Child Development Services System as a participating local district includes service credit earned initially under the retirement system's state and teacher plan and subsequently transferred to Child Development Services System as a participating local district to be considered as service credit earned under Child Development Services System's participating local district plan shall elect one of the following:

(1) To have transferred back to the retirement system's state and teacher plan all of the person's service credit under the Child Development Services System's participating local district plan including service credit earned initially under the retirement system's state and teacher plan and subsequently transferred to Child Development Services System as a participating local district to be considered as service credit earned under Child Development Services System's participating local district plan. For each person who so elects, the amount of the full actuarial value of the person's retirement benefit calculated on the basis of the combined service credit and average final compensation based on compensation related to that service credit must be transferred from Child Development Services System's participating local district plan to the retirement system's state and teacher

plan. All of the service credit so transferred must be considered a service credit earned under the state and teacher plan and must be combined with other service credit, if any, earned by the person under the state and teacher plan;

(2) To receive a lump-sum distribution calculated on the basis of the person's service credit earned under the Child Development Services System participating local district plan and average final compensation based on compensation earned under the Child Development Services System's participating local district plan, less any distribution of employee contributions and interest already made to the person as a refund subsequent to June 30, 1992, and to have transferred back to the retirement system's state and teacher plan the service credit initially earned under the state and teacher plan and subsequently transferred to the Child Development Services System participating local district plan. For each person who so elects, the amount of the full actuarial value of the person's retirement benefit calculated on the basis of that service credit and average final compensation based on compensation related to that service credit must be transferred from Child Development Services System participating local district plan to the state and teacher plan. All of the service credit so transferred must be considered as service credit earned under the state and teacher plan and must be combined with other service credit, if any, earned by the person under the state and teacher plan; or

(3) To receive a lump-sum distribution calculated on the basis of the person's service credit under the Child Development Services System's participating local district plan, including service credit initially earned under the retirement system's state and teacher plan and subsequently transferred to Child Development Services System as a participating local district to be considered as service credit earned under Child Development Services System participating local district plan, and average final compensation based on compensation related to all of that service credit.

3. If, after all lump-sum distributions are made, there are insufficient assets in Child Development Services System's participating local district plan to carry out all transfers of full actuarial value to the state and teacher plan that are necessary as a result of elections made by persons entitled to an election under

this section, the amount of the shortfall in assets must be calculated as a percent of the total amount of assets required to make all of the full actuarial value transfers. That percentage must then be applied to the full actuarial value for each person's electing such a transfer, reducing each person's full actuarial value and related transferred service credit by that percentage, so that the transferred service credit, so reduced, is fully funded.

4. If, after all lump-sum distributions and transfers of actuarial values as provided under this section are made, assets remain in the Child Development Services System's participating local district plan, the full remaining balance of assets must be distributed to Child Development Services System for retention or distribution back to Child Development Services System's funding source or sources, as required by applicable law.

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

Effective April 10, 1996.

CHAPTER 79

S.P. 749 - L.D. 1859

An Act to Authorize the Disposition of Property Interests at the Pineland Center

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

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

1. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. Lease. "Lease" refers to real property leases and includes but is not limited to ground leases and leases with option to purchase.

3. Pineland Conversion Committee. "Pineland Conversion Committee," referred to in this Act as the "committee," consists of the Commissioner of Administrative and Financial Services or the commissioner's designee who serves as chair; the Director of the Bureau of General Services within the Department of Administrative and Financial Services; the chair or any member of the Governor's Task Force on Pineland Center Reuse as of October 1995 as established by Executive Order 4 Fiscal Year 1994-95; a representative appointed by the Board of Selectmen of the Town

of New Gloucester; and a representative appointed by the Governor.

4. State property. "State property" means the property known as "the Pineland Center," containing approximately 299.92 acres, and described in the following deeds recorded in the Cumberland County Registry of Deeds: Book 822, Page 249; Book 822, Page 251; Book 822, Page 253; Book 822, Page 257; Book 823, Page 385; Book 826, Page 79; Book 844, Page 28; and Book 1796, Page 401; together with the buildings and improvements, all appurtenant rights and easements and all personal property located on that property, including vehicles, machinery, equipment and supplies.

Sec. 2. Authority to convey real estate. The State, through the commissioner and upon a majority vote of the committee, may:

1. Enter into agreements. Enter into agreements for sale or lease of all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion subject to any federal, state or local permits or approvals required by law;

2. Enter into leases. Execute and deliver a lease or leases, or deeds as described in section 5, and other instruments transferring interests in all or portions of the state property at such prices and upon such terms as the committee determines, in its sole discretion;

3. Settle boundary discrepancies. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

4. Eminent domain. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, the power of eminent domain for the purpose of quieting for all time any possible challenges to ownership of the state property and for no other purpose;

5. Contribute to value. Negotiate, draft, execute and deliver any easements or other rights that could contribute to the value of a proposed sale or lease of the State's interests; and

6. Release interest. Release any interests in the state property that do not contribute to the value of the remaining state property.

Sec. 3. Membership; appointment. The committee established in section 1, subsection 3 consists of 5 members, appointed by the Governor, to serve until such time as the Governor appoints members to the Pineland Development Authority pursuant to section 13 or all interests in the state property have been conveyed. A committee member's term does not extend beyond 2 years from the

effective date of this Act. Immediately after appointment, the member shall assume that member's duties. Any vacancy must be filled for the unexpired term by the Governor. Three members are required for the committee to take action as long as at least one member voting in favor of any committee action is either the chair or a member of the Governor's Task Force on Pineland Center Reuse or the representative appointed by the municipal officers of the Town of New Gloucester. A vacancy in the committee does not impair the right of committee members to exercise all the rights and perform all the duties of the committee. The Governor may remove a member from the committee for misconduct.

A committee member is not entitled to receive compensation for services but is entitled to receive reimbursement for necessary expenditures, including travel expenses incurred in carrying out these services. A committee member is not an employee of the State or its agencies.

Sec. 4. Conflict of interest. A committee member may not acquire any interest, direct or indirect, in any contract or proposed contract of the committee. A committee member may not participate in any decision on any contract entered into by the committee if that individual has any interest, direct or indirect, in any firm, partnership, corporation, association or other entity that may be a party to any contract or financially involved in any transaction with the committee.

Sec. 5. Property to be sold "as is." The state property must be leased or sold "as is," with no representations or warranties.

Title must be transferred by quitclaim release deed without covenant and executed by the commissioner.

Sec. 6. Qualifications of potential bidders, purchasers or lessees. The committee may establish reasonable criteria for the qualification of parties eligible to submit bids or offers to purchase or lease all or any portion of the state property. The criteria must address the parties' technical and financial ability to complete any development plans submitted to the committee.

Sec. 7. Exemptions. Any lease or conveyance pursuant to this Act is exempt from any statutory or regulatory requirement that the state property first be offered to the Maine State Housing Authority or another state or local agency.

Sec. 8. Marketing. The commissioner shall have the current market value of the state property determined by a qualified appraiser. The commissioner may market the state property by:

1. Marketing plans. Soliciting marketing plans for sale or lease of the state property. The commissioner has authority to select a marketing plan and to enter into a contract with the successful applicant;

2. Listing property. Listing the state property for sale or lease with private real estate brokers at its appraised value;

3. Bids. Soliciting bids from potential purchasers or lessees; or

4. Direct sale. Selling directly to purchasers or entering directly into leases with tenants.

If the commissioner elects to solicit bids, the commissioner shall publish notices of sale sufficient to advertise the properties.

Sec. 9. Development plans. The committee may require all potential bidders, purchasers or lessees to submit comprehensive plans describing their proposed development projects, including financial arrangements to ensure completion of the project for the Pineland Center.

Sec. 10. Remediation. One million dollars must be appropriated from the General Fund for remediating certain environmental contamination at the Pineland Center property and, within available funds, assisting the Town of New Gloucester with zoning and site-use planning related to the Pineland property. The funds must be deposited into the "All Other Line Category, Public Improvements - Planning - Construction - Administration, Bureau of General Services." These funds must be expended upon recommendation of the Director of the Bureau of General Services.

Sec. 11. Perry Hayden Hall. The building known as "Perry Hayden Hall," together with sufficient land lying southerly of Morse Road, must first be offered to School Administrative District 15, referred to in this section and section 12 as "SAD 15," to satisfy applicable land use laws and ordinances and as required for school purposes. SAD 15 has a period of time not to exceed 180 days from the effective date of this Act to conduct any studies and evaluations to determine whether Perry Hayden Hall and associated real estate are suitable for use as a school and to enter into written purchase and sale agreement, lease, lease with option to buy or option to buy with the State through the commissioner.

Sec. 12. Transfer of management authority. Nine months from the effective date of this Act, the commissioner shall report to the Governor on the status of marketing efforts for the state property. If, after reviewing the report, the Governor determines that the committee has received a written offer or offers to purchase or has entered into

a legally binding agreement or agreements for sale or lease of substantially all of Pineland Center, including Perry Hayden Hall if SAD 15 has elected not to purchase or lease, the Governor may not appoint members to the Pineland Development Authority, and the committee shall continue until terminated by the Legislature or until all interests in the state property are sold or leased.

If the Governor determines that the committee has not received an oral or written offer or offers to purchase or entered into a legally binding agreement or agreements for sale or lease of substantially all of Pineland Center including Perry Hayden Hall if SAD 15 has elected not to purchase or lease, the Governor shall appoint members to the Pineland Development Authority, which assumes management responsibility for the Pineland Center property in accordance with the terms of this Act. Upon appointment of members to the authority, all functions of the committee are transferred to the authority and the committee is terminated.

Sec. 13. Pineland Development Authority. The Pineland Development Authority is established as a body corporate and politic and a public instrumentality of the State to carry out the provisions of this Act. The authority manages the state property in the name of the State.

It is declared that the purposes of this Act are public and that the authority is performing a governmental function in carrying out this Act.

1. Definitions. For purposes of this section, the following terms have the following meanings.

A. "Authority" means the Pineland Development Authority.

B. "Pineland" or "Pineland Center" means the property consisting of approximately 299.92 acres, as further described in section 1, subsection 2.

C. "Maine Municipal Bond Bank" is defined in the Maine Revised Statutes, Title 30-A, section 5903, subsection 1.

D. "Readjustment" means use of the Pineland Center following the cessation of use by the Department of Mental Health and Mental Retardation.

2. Powers; membership; obligations. The authority is a public municipal corporation and may:

A. Sue and be sued;

B. Have a seal and alter the seal at its pleasure;

C. Adopt and amend bylaws covering its procedures and rules for the purposes set forth in this Act; 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;

D. Utilize the services of the Department of Administrative and Financial Services that are available and expedient and all charges for services provided by the department may be paid to the department by the authority as mutually agreed upon;

E. Utilize the Division of Financial and Personnel Services within the Department of Administrative and Financial Services as the authority's fiscal agent. The division shall provide regular financial reports to the authority and the commissioner on funds received and expended. The authority shall reimburse the division for its services to the authority;

F. Accept the cooperation of the State or its agencies in the construction, maintenance, reconstruction, operation and financing of the Pineland Center and the readjustment of the Pineland Center, if any, and take necessary actions to utilize that aid and cooperation;

G. Be eligible as a "governmental unit" to borrow money from the Maine Municipal Bond Bank pursuant to the Maine Revised Statutes, Title 30-A, section 5953;

H. Exercise those powers enumerated in section 2, subsection 1;

I. Employ such assistants, attorneys, experts and other employees and consultants as the authority considers necessary or desirable for its purposes; and

J. Take all other lawful action necessary and incidental to effectuate the purposes set forth in this Act.

3. Income and expenses. The authority may make all expenditures necessary within available resources to carry out the purposes of this Act.

Any notes, obligations or liabilities under this Act may not be considered a debt or obligation 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 Act. Pecuniary liability of any kind may not be imposed upon 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 are confidential and members of the authority, any assistants, attorneys, experts, contractors or employees are not employees of the State or its agencies. The authority is deemed to qualify for all lawyer-client privileges.

4. Membership; appointment. The authority consists of a board of 13 directors appointed by the Governor, each to serve for 3 years; except that of 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 appointment, the directors shall assume their duties.

The Governor shall make the 13 appointments, as follows:

- A. The commissioner or the commissioner's designee;
- B. The Director of the Bureau of General Services within the Department of Administrative and Financial Services or the director's designee;
- C. The chair or any member of the Governor's Task Force on Pineland Center Reuse as of October 1995, as established by Executive Order 4 Fiscal Year 1994-95;
- D. Two representatives from the Town of New Gloucester;
- E. One representative from the Town of Pownal;
- F. One representative from the Town of North Yarmouth;
- G. One representative from the Town of Gray;
- H. The Commissioner of Economic and Community Development or the commissioner's designee;
- I. The Director of the State Planning Office or the director's designee; and
- J. Three additional members appointed by the Governor.

Representatives from the towns listed in paragraphs D, E, F and G are selected as follows. Municipal officers from the towns of Gray, New Gloucester, North Yarmouth and Pownal shall each submit to the Governor the names of 3 candidates for appointment to the authority. The Governor, in the Governor's sole discretion, shall select from the group of candidates one representative from each of the towns, except that the Governor shall select 2 representatives from the Town of New Gloucester.

Seven members constitute a quorum. Seven affirmative votes are required for the board of directors to take action. The affirmative votes must include the votes of 2 representatives appointed pursuant to paragraphs C to G.

The liability of the authority is governed by the Maine Tort Claims Act. Directors are not subject to any personal liability for actions taken as board members.

A director is not entitled to receive compensation for services to the authority but is entitled to receive reimbursement for necessary expenditures, including travel expenses incurred in carrying out these services.

The commissioner or the commissioner's designee is the chair of the authority.

Any vacancy must be filled for the unexpired term by the Governor. A vacancy in the authority does not impair the right of 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.

5. Special utility districts. The authority may form special utility districts and provide municipal utility services within its jurisdiction. The board of directors has the authority of a municipal legislative body for these purposes. A special utility district formed under this subsection does not have the power of eminent domain. The purposes of a special utility district may include but are not limited to the following.

- A. The authority may provide sewer services as a sanitary district under the Maine Revised Statutes, Title 38, chapter 11, subchapters III and IV. The authority may establish a board of trustees for the sanitary district and appoint the members of the board or may act as the trustees of the district.
- B. The authority may provide solid waste disposal services as a refuse disposal district under the Maine Revised Statutes, Title 38, chapter 17.
- C. The authority may provide water as a water district under the Maine Revised Statutes, Title 35-A, Part 6. The authority may establish a board of trustees for the district and appoint the members of the board or may act as the trustees of the district.

6. 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 is a party to the contract or if that individual is financially involved in any transaction with the authority; except that 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 for which rates are fixed or controlled by a governmental agency.

7. Report to the Legislature; department review; operating budget. Beginning January 1, 1998, the authority shall present an annual report to the Legislative Council and send copies to the joint standing committee of the Legislature having jurisdiction over state and local government matters and the commissioner. The report must include a description of the authority's activities for the preceding fiscal year, including a report of its receipts and expenditures from all sources.

Within 60 days of the date on which the directors are appointed and assume their duties, the authority shall present to the commissioner for the commissioner's approval a proposed operating budget for the remainder of the fiscal year. Beginning January 1, 1998, the authority shall present an annual proposed operating budget for the next fiscal year beginning July 1st to the commissioner for approval.

All expenditures of the authority are subject to audit by appropriate state agencies.

8. Termination of authority. The authority is not dissolved until:

A. The authority is terminated by the Legislature; and

B. All money borrowed from the Maine Municipal Bond Bank, pursuant to the Maine Revised Statutes, Title 30-A, section 5951, together with interest and premiums, has been repaid or a sufficient amount for repayment has been irrevocably set aside in trust for repayment of the sum borrowed, together with interest and premiums.

All funds, property interests or other assets held by the authority at the time of termination revert to the State.

Sec. 14. Funding. The Department of Administrative and Financial Services must designate, from the amounts appropriated to carry out the purposes of this Act, amounts sufficient to meet the requirements of the Maine Revised Statutes, Title 30-A, section 5685.

See title page for effective date.

CHAPTER 80

H.P. 1025 - L.D. 1440

An Act to Repeal the Gross Receipts Tax

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

Sec. 1. Proof of gross receipts tax repeal savings reduction of rates charged. All persons licensed by this State as a nursing home within the meaning of the Maine Revised Statutes, Title 22, section 1812-A prior to the repeal of Title 36, section 2822, subsection 2 who increased their rates by 7% after July 1, 1993 shall reduce rates charged to consumers of nursing home services by 7% and shall provide proof to those consumers that the rates charged for nursing home care no longer include an amount related to the gross receipts tax. The Department of Human Services shall send a letter to all nursing home consumers that notifies those consumers that the gross receipts tax of 7% has been repealed effective January 1, 1997. All persons licensed by the State as a nursing home must include a statement concerning the repeal of the 7% gross receipts tax on the first bill provided to consumers of those nursing homes in calendar year 1997.

See title page for effective date.

CHAPTER 81

H.P. 1330 - L.D. 1822

An Act to Authorize a Bond Issue to Encourage and Support Economic Development

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 the capitalization of the Small Enterprise Growth Fund and the Agricultural Marketing Loan Fund.

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

Sec. 1. Authorization of bonds to provide for the capitalization of the Small Enterprise Growth Fund and the Agricultural Marketing Loan Fund. 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 \$11,000,000 to raise funds for the capitalization of the Small Enterprise Growth Fund and the

Agricultural Marketing Loan Fund to provide disbursements to enterprises in critical stages of growth, as authorized by section 7. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 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. The bonds, when paid at maturity or otherwise retired, may not be reissued, but may be refunded on terms more favorable to the State than those in the original issue.

Sec. 2. Records of bonds issued to be kept by the State Auditor and Treasurer of State.

The State Auditor shall keep an account of the bonds, showing the number and amount of each, the date when payable and the date of delivery of the bonds to 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. 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 Act. Any unencumbered balances remaining at the completion of the project in section 7 lapse to the debt service account established for the retirement of these bonds.

Sec. 4. Taxable bond option. The Treasurer of State, at the direction of the Governor, shall covenant and consent that the interest on the bonds is includable, under the United States Internal Revenue Code, 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. The powers conferred by this section are subject to any limitations or restrictions of any law that may limit the power to covenant and consent.

Sec. 5. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. 6. Disbursement of bond proceeds. The proceeds of the bonds must be expended as set out in section 7.

Sec. 7. Allocations from General Fund bond issue. The proceeds of the sale of bonds must be expended as designated in the following schedule.

FINANCE AUTHORITY OF MAINE

Small Enterprise Growth Fund	\$5,000,000
Agricultural Marketing Loan Fund	\$6,000,000
TOTAL	\$11,000,000

Sec. 8. Contingent upon ratification of bond issue. Sections 1 to 7 do not become effective unless the people of the State have ratified the issuance of bonds as set forth in this Act.

Sec. 9. 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. 10. 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 Act, 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. 11. Referendum for ratification; submission at general election; form of question; effective date.

This Act must be submitted to the legal voters of the State of Maine at the next general election in the month 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 general election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$11,000,000 bond issue to encourage job growth and economic vitality by providing access to capital for agricultural enterprises and small businesses with a significant potential for growth and job creation?"

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 Act, the Governor shall proclaim the result without delay, and the Act 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 Act necessary to carry out the purpose of this referendum.

Effective pending referendum.

CHAPTER 82

S.P. 741 - L.D. 1849

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Construct Water Pollution Control Facilities and to Address Environmental Health Deficiencies in Drinking Water Supplies

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 construct water pollution control facilities and to address environmental health deficiencies in drinking water supplies.

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

Sec. 1. Authorization of bonds to provide for funds to construct water pollution control facilities and to address environmental health deficiencies in drinking water supplies. 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 \$10,000,000 to raise funds to construct water pollution control facilities and to address environmental health deficiencies in drinking water supplies 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 10 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. 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. 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 Act. 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. 4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. 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 Department of Environmental Protection and the Department of Human Services.

Sec. 6. Allocations from General Fund bond issue; construct water pollution control facilities; address environmental health deficiencies in drinking water supplies. The proceeds of the sale of bonds must be expended as designated in the following schedule.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Construction of water pollution control facilities to provide the state match for \$10,000,000 in federal funds	\$8,000,000
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HUMAN SERVICES, DEPARTMENT OF

Address environmental health deficiencies in drinking water supplies	2,000,000
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TOTAL ALLOCATIONS	\$10,000,000
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Sec. 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 Act.

Sec. 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. 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 Act, 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. 10. Referendum for ratification; submission at general election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine at the next general election in the month 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 general election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$10,000,000 bond issue for the following purposes: (1) \$8,000,000 to construct water pollution control facilities, providing the state match for \$10,000,000 in federal funds; and (2) \$2,000,000 to address environmental health deficiencies in drinking water supplies?"

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 Act, the Governor shall proclaim the result without delay, and the Act 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 Act necessary to carry out the purpose of this referendum.

Effective pending referendum.

CHAPTER 83

H.P. 1336 - L.D. 1830

**An Act to Make Supplemental
Allocations from the Highway Fund,
Allocations from Other Funds and a
General Fund Appropriation and to
Amend Certain Transportation Laws**

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 July 1, 1996, the beginning of the next fiscal year; and

Whereas, certain obligations and expenses become due and payable prior to July 1, 1996; 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. Allocations. The following funds are allocated from the Highway Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, to carry out the purposes of this Part.

1995-96

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

Salary Plan

Personal Services	\$3,376,543
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Provides for the allocation of funds to correct an entry in Public Law 1995, chapter 504, Part A, section 1.

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

3,376,543

**TRANSPORTATION,
DEPARTMENT OF**

Bridge Maintenance

Personal Services	(400,000)
All Other	400,000

TOTAL	-0-
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Provides for the allocation of funds through the transfer of salary savings to All Other for additional bridge maintenance operating expenditures and vehicle costs.

Highway Maintenance

Personal Services	(1,300,000)
All Other	1,300,000

TOTAL	-0-
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Provides for the allocation of funds through the transfer of salary savings to All Other for the purpose of providing emergency building repairs to the Scarborough Division Office and for providing additional funding for necessary spring ditch digging.

Traffic Service

Personal Services	(100,000)
All Other	100,000

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

Provides for the allocation of funds through the transfer of salary savings to All Other for the purchase of paint supplies for the upcoming pavement striping season.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

SECTION TOTAL ALLOCATIONS	\$3,376,543
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Sec. A-2. Allocations. The following funds are allocated from the Federal Expenditures Fund for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, to carry out the purposes of this Part.

1996-97

**TRANSPORTATION,
DEPARTMENT OF**

Collector Road Program

All Other	\$1,100,000
Capital Expenditures	600,000

Provides for the allocation of funds from revenues received from the Federal Highway Administration as provided by Public Law 1995, chapter 498, Part B, section 1.

DEPARTMENT OF TRANSPORTATION TOTAL	1,700,000
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SECTION TOTAL ALLOCATIONS	\$1,700,000
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Sec. A-3. Allocations. The following funds are allocated from Other Special Revenue funds for the fiscal years ending June 30, 1996 and June 30, 1997, to the departments listed, to carry out the purposes of this Part.

	1995-96	1996-97
TRANSPORTATION, DEPARTMENT OF Administration - Aeronautics		

All Other	\$50,000	\$200,000
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Provides for the allocation of funds for the local share of municipal airport Federal Aviation Administration projects.

Collector Road Program

All Other	1,100,000
Capital Expenditures	600,000

TOTAL	1,700,000
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Provides for the allocation of funds from revenues received from municipalities participating in the Collector Road Improvement Fund as provided by Public Law 1995, chapter 498, Part B, section 1.

Railroad Assistance Program

All Other	165,000
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Provides for the allocation of funds for the grant loan

program as required for
the continuing use of
Federal Railroad
Administration funds.

DEPARTMENT OF TRANSPORTATION		
TOTAL	<u>50,000</u>	<u>2,065,000</u>
SECTION		
TOTAL ALLOCATIONS	<u>\$50,000</u>	<u>\$2,065,000</u>

PART B

Sec. B-1. Highway Fund salary plan; lapsed balances. Notwithstanding any other provision of law, \$3,376,543 of the unencumbered balance forward from fiscal year 1994-95 in the salary plan account in the Department of Administrative and Financial Services lapses to the Highway Fund in fiscal year 1995-96.

PART C

Sec. C-1. Augusta State Airport transition plan. The Department of Transportation is directed to pursue negotiations with the City of Augusta for operation of the Augusta State Airport. The department is further directed to develop a transition plan that will address the transfer of airport operations, infrastructure improvements and funding considerations. The department shall submit this transition plan during the First Regular Session of the 118th Legislature to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than January 15, 1997 and shall advise the committee during the implementation of this plan. The committee may report out legislation regarding this transition plan.

PART D

Sec. D-1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1995-96

PUBLIC SAFETY, DEPARTMENT OF

State Police

Capital Expenditures	\$75,000
Provides funds for the construction of a DNA wing for the state crime laboratory. This appropriation represents 25% of the total estimated cost. Notwithstanding any other provision of law, any	

unencumbered balance appropriated for this purpose may not lapse but must be carried forward until June 30, 1997 and must be used for construction of the DNA wing of the state crime laboratory.

Sec. D-2. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Part.

1995-96

PUBLIC SAFETY, DEPARTMENT OF

State Police

Personal Services	(\$500,000)
Deallocates funds due to salary savings resulting from the delay in the start of the State Police class at the Maine Criminal Justice Academy until November 5, 1995.	

State Police

Capital Expenditures	225,000
Provides funds for the construction of a DNA wing for the state crime laboratory. This allocation represents 75% of the total estimated cost. Notwithstanding any other provision of law, any unencumbered balance allocated for this purpose may not lapse but must be carried forward until June 30, 1997 and must be used for construction of the DNA wing of the state crime laboratory.	

DEPARTMENT OF PUBLIC SAFETY

TOTAL	<u>(\$275,000)</u>
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Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 11, 1996.

CHAPTER 84**H.P. 1371 - L.D. 1879**

**An Act to Authorize a General Fund
Bond Issue in the Amount of
\$16,500,000 to Investigate, Abate and
Clean Up Hazardous Substance
Discharges, to Clean Up Tire
Stockpiles and to Close and Clean up
Municipal Solid Waste Landfills**

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 investigate, abate and clean up threats to public health and the environment from hazardous substance discharges, to clean up tire stockpiles and to close and clean up municipal solid waste landfills.

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

Sec. 1. Authorization of bonds to provide funds to investigate, abate and clean up threats to public health and the environment from hazardous substance discharges, to clean up tire stockpiles and to close and clean up municipal solid waste landfills. 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 \$16,500,000 to raise funds to investigate, abate and clean up threats to public health and the environment from hazardous substance discharges, to clean up tire stockpiles and to close and clean up municipal solid waste landfills 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 10 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. 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. 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 following purposes:

1. The investigation, abatement, cleanup and mitigation of threats to public health and the environment from hazardous substance discharges;

2. The cleanup of tire stockpiles to protect the public health and safety and the environment; the bond proceeds may only be expended for activities that abate the public health, safety and environmental hazards posed by stockpiles, encompassing activities that reduce the number of stockpiled tires in the State; and

3. The reimbursement for all outstanding municipal solid waste landfill closure and remediation expenses. Remaining proceeds must be allocated for municipal solid waste landfill site evaluation and planning and a municipal grants program for implementation of new landfill closure and clean-up plans.

Any unencumbered balances remaining at the completion of the projects in section 6 lapse to the debt service account established for the retirement of these bonds.

Sec. 4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

Sec. 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 Department of Environmental Protection.

Sec. 6. Allocations from General Fund bond issue; investigate, abate and clean up hazardous substance discharges; clean up tire stockpiles; close and clean up municipal solid waste landfills. The proceeds of the sale of bonds must be expended as designated in the following schedule.

1996-97

**ENVIRONMENTAL
PROTECTION, DEPARTMENT
OF**

Investigation, abatement, clean up and mitigation of threats to public health and the environment from hazardous substance discharges	\$2,500,000
Clean up of tire stockpiles to protect the public health and safety and the environment	5,000,000

Reimbursement for all outstanding municipal solid waste landfill closure and remediation expenses. Remaining proceeds to be allocated for municipal solid waste landfill site evaluation and planning and a municipal grants program for implementation of new landfill closure and clean-up plans

9,000,000

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

TOTAL ALLOCATIONS

\$16,500,000

Sec. 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 Act.

Sec. 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. 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 Act, 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. 10. Referendum for ratification; submission at general election; form of question; effective date. This Act must be submitted to the legal voters of the State of Maine at the next general election in the month 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 a \$16,500,000 bond issue for the following purposes: (1) \$2,500,000 to investigate, abate and clean up threats to the public health and the environment from hazardous substance discharges; (2) \$5,000,000 to protect the public health, safety and the environment by providing funds for the cleanup of tire stockpiles; and (3) \$9,000,000 to protect the State's drinking water resources by granting funds to

cities and towns for the closure and cleanup of their solid waste landfills?"

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 Act, the Governor shall proclaim the result without delay, and the Act 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 Act necessary to carry out the purposes of this referendum.

Effective pending referendum.

RESOLVES OF THE STATE OF MAINE
AS PASSED AT
THE SECOND REGULAR SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995

CHAPTER 59

H.P. 1175 - L.D. 1607

**Resolve, to Extend Deadlines
Relating to the Task Force to Review
the Beverage Container Deposit
Laws**

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

Whereas, the Task Force to Review the Beverage Container Deposit Laws was unable to begin its work within the time contemplated by Resolve 1995, chapter 52; and

Whereas, the legislation is necessary as an emergency measure to afford adequate time for the issues to be appropriately addressed by the task force; 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

Sec. 1. Resolve 1995, c. 52, §5, last ¶, amended. Resolved: That Resolve 1995, c. 52, §5, last ¶ is amended to read:

In examining these issues, the task force may hold 3 meetings, including the initial organizational meeting. The task force shall hold its last meeting no later than ~~October 15~~ November 30, 1995; and be it further

; and be it further

Sec. 2. Resolve 1995, c. 52, §8, first ¶, amended. Resolved: That Resolve 1995, c. 52, §8, first ¶ is amended to read:

Sec. 8. Report. Resolved: That, no later than ~~November 15~~ December 20, 1995, the task force shall submit a written report together with any recommended legislation 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 task force shall make an oral report to the Joint Standing Committee on Business and Economic Development no later than January 30, 1996. The Joint Standing Committee on Business and Economic Development is authorized to report out any legislation during the Second Regular Session of the 117th Legislature concerning the findings and recommendations of the task force.

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

Effective March 7, 1996.

CHAPTER 60

H.P. 1225 - L.D. 1678

**Resolve, to Authorize the Maine
Technical College System to Transfer
Interests in Real Property**

Sec. 1. Sale of property. Resolved: That the Board of Trustees of the Maine Technical College System is authorized to sell approximately one acre of real estate located in Falmouth and donated to the Southern Maine Technical College; and be it further

Sec. 2. Revenues credited to separate fund. Resolved: That, pursuant to the Maine Revised Statutes, Title 20-A, section 12706, subsection 13, all revenues derived from the sale of the land in section 1 must be credited to a separate fund to be used for the purposes of the Maine Technical College System; and be it further

Sec. 3. Transfer of easement. Resolved: That the Central Maine Technical College in Auburn is authorized to transfer to the Lake Auburn Watershed Association a conservation easement along Lake Auburn; and be it further

Sec. 4. Central Maine Technical College to acquire real estate. Resolved: That, in consideration of the transfer in section 3, the Central Maine Technical College will acquire real estate

located adjacent to the Central Maine Technical College.

See title page for effective date.

CHAPTER 61

H.P. 1297 - L.D. 1780

Resolve, to Establish a Tuition Rate for the Town of Dennysville and to Review the Provision of Education Services in the Unorganized Territory

Sec. 1. Establish the tuition rate for school year 1996-97. Resolved: That, notwithstanding the Maine Revised Statutes, Title 20-A, section 3304, the per student tuition charge for students from the Town of Dennysville attending the Edmunds School is limited to \$4,385 for the 1996-97 school year; and be it further

Sec. 2. Review of education in the unorganized territory. Resolved: That the Commissioner of Education shall review and make recommendations concerning the provision of education services to all students in the unorganized territory. The commissioner shall convene a study group that includes representation from parties with an interest in education in the unorganized territory to assist in the review. The review must include all aspects of education in the unorganized territory, including, but not limited to, governance, administration, funding and personnel. The commissioner shall report on the Department of Education's findings and recommendations to the joint standing committee of the Legislature having jurisdiction over education by December 15, 1996.

See title page for effective date.

CHAPTER 62

H.P. 1275 - L.D. 1751

Resolve, to Authorize the Exchange of a Parcel of Land Owned by the State with One Owned by Luke Bolduc

Sec. 1. Commissioner of Defense and Veterans' Services authorized to exchange property. Resolved: That the Commissioner of Defense and Veterans' Services shall convey by quitclaim deed the parcel of land in the City of Augusta in Kennebec County described in the deed recorded at the Kennebec County Registry of Deeds,

Book 1688, Page 293 in exchange for the parcel of land owned by Luke Bolduc and conveyed by quitclaim deed in the City of Augusta in Kennebec County described in the deed recorded at the Kennebec County Registry of Deeds, Book 4952, Page 283.

See title page for effective date.

CHAPTER 63

S.P. 379 - L.D. 1056

Resolve, to Create an Advisory Committee to Assist in the Management of State Employee Workers' Compensation Costs

Sec. 1. Committee established. Resolved: That the Advisory Committee on State Employee Workers' Compensation Costs Management, referred to in this resolve as the "advisory committee," is established to study the manner in which the costs of workers' compensation for state employees are managed; and be it further

Sec. 2. Membership. Resolved: That the advisory committee consists of the following 12 members.

1. The Governor shall appoint the following members:

A. A representative of the Workers' Compensation Division of the Bureau of Human Resources;

B. A member experienced in implementing workplace safety programs in the private sector;

C. A member who is a 3rd-party administrator of workers' compensation claims in the private sector; and

D. A representative from the Department of Labor, Bureau of Labor Standards familiar with workplace safety issues.

2. The President of the Senate shall appoint the following members:

A. A certified public accountant with experience in structure settlements;

B. A representative of an insurance company providing workers' compensation to private companies;

C. A member who is a claims adjudicator in the private sector; and

D. A member experienced in implementing return-to-work programs in the private sector.

3. The Speaker of the House of Representatives shall appoint the following members:

A. One member from each of the 3 labor organizations representing state employees; and

B. A lawyer who handles workers' compensation claims; and be it further

Sec. 3. Duties. Resolved: That the advisory committee shall identify the costs of state employee workers' compensation claims and review the programs and mechanisms used to control those costs. The advisory committee shall investigate alternative methods of reducing those costs and reducing future workplace injuries. The advisory committee shall identify methods or improvements to accomplish the following goals:

1. Ensuring that state employee workers' compensation costs are controlled in a responsible manner with particular emphasis on safety and return-to-work programs;

2. Ensuring that state employee workers' compensation claims are administered as efficiently and economically as possible; and

3. Ensuring that Legislators and members of the public have accurate information about the extent of state employee workers' compensation costs; and be it further

Sec. 4. Report. Resolved: That the advisory committee shall make a report to the Governor and the joint standing committees of the Legislature having jurisdiction over labor matters and state and local government matters by February 1, 1997. The report must contain the results of the advisory committee's review and investigation and any recommendations; and be it further

Sec. 5. Meetings. Resolved: That the Chair of the Legislative Council shall call the first meeting by September 15, 1996. The advisory committee members shall designate a member to serve as chair of the committee; and be it further

Sec. 6. Report on current programs. Resolved: That at the first meeting, a representative of the Department of Administrative and Financial Services, Bureau of Human Resources shall report to the advisory committee on the programs that the State has in place and the steps that have been taken to improve the State's management of its workers' compensation costs. This report must describe funding issues, administration of claims, return-to-

work programs, workplace safety programs and other related efforts; and be it further

Sec. 7. Compensation. Resolved: That members of the advisory committee serve without compensation. Members who are not state employees may receive reimbursement for reasonable expenses incurred in attending meetings of the advisory committee; and be it further

Sec. 8. Staff. Resolved: That the advisory committee may request staff assistance from the Department of Administrative and Financial Services.

See title page for effective date.

CHAPTER 64

H.P. 1219 - L.D. 1669

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

Sec. 1. State Tax Assessor authorized to convey real estate. Resolved: That the State Tax Assessor is authorized to convey by sale the interest of the State in real estate in the Unorganized Territory as indicated in this resolve. The sale, except as otherwise directed in this resolve, must be made to the highest bidder subject to the following provisions:

1. Notice of the sale must be published 3 times prior to the sale, once each week for 3 consecutive weeks in some newspaper in the county where the real estate lies; except in those cases in which the sale is to be made to a specific individual or individuals as authorized in this resolve, in which case notice need not be published; and

2. A parcel may not be sold for less than the amount as authorized in this resolve. If identical high bids are received, the bid postmarked with the earliest date is considered the highest bid.

If bids in the minimum amount recommended in this resolve are not received after the notice, the State Tax Assessor may sell the property for not less than the minimum amount, without again asking for bids, if the property is sold on or before March 1, 1997.

Employees of the Bureau of Taxation and members of the immediate family of employees of the Bureau of Taxation are barred from acquiring from the State any of the real property subject to this resolve.

The State Tax Assessor, upon receipt of payment as specified in this resolve, shall record the deed in the

appropriate registry at no additional charge to the purchaser before sending the deed to the purchaser.

Abbreviations, plan and lot references are identified in the 1995 State Valuation.

TA R5 WELS, Aroostook County	
Map AR022, Plan 02, Lot 3	038060062
Anthony Adams	1.50 Ac. w/Bldg.
TAX LIABILITY	
1993	\$112.64
1994	103.99
1995	99.17
1996 (estimated)	<u>99.17</u>
Estimated Total Taxes	\$414.97
Interest	22.57
Costs	16.00
Deed	<u>8.00</u>
Total	\$461.54
Recommendation: Sell to Anthony Adams for \$461.54. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$475.00.	

Connor Township, Aroostook County	
Map AR105, Plan 02, Lot 43.10	038020375
Heirs of Carol L. Grady	40.60 Acres
TAX LIABILITY	
1993	\$97.87
1994	90.89
1995	86.68
1996 (estimated)	<u>86.68</u>
Estimated Total Taxes	\$362.12
Interest	19.63
Costs	16.00
Deed	<u>8.00</u>
Total	\$405.75
Recommendation: Sell to the heirs of Carol L. Grady for \$405.75. If they do not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$425.00.	

Salem Township, Franklin County	
Map FR027, Plan 04, Lot 43.7	078200006
Peter M. Wilson	1.07 Acres

TAX LIABILITY	
1993	\$44.30
1994	41.85
1995	42.76
1996 (estimated)	<u>42.76</u>
Estimated Total Taxes	\$171.67
Interest	8.92
Costs	16.00
Deed	<u>8.00</u>
Total	\$204.59

Recommendation: Sell to Peter M. Wilson for \$204.59. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$225.00.

T3 ND and Strip, North Hancock County	
Map HA001, Plan 03, Lot 82	098010064
George Howe	Building on leased land

TAX LIABILITY	
1993	\$186.75
1994	143.95
1995	139.29
1996 (estimated)	<u>139.29</u>
Estimated Total Taxes	\$609.28
Interest	35.92
Costs	16.00
Deed	<u>8.00</u>
Total	\$669.20

Recommendation: Sell to George Howe for \$669.20. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$675.00.

Kingman Township, Penobscot County	
Map PE036, Plan 02, Lot 50	198080005
Zoltan Jaszberenyi	0.37 Acre

TAX LIABILITY

1993	\$8.92
1994	<u>Paid</u>
1995	7.20
1996 (estimated)	<u>7.20</u>

Estimated Total Taxes	\$23.32
Interest	1.35
Costs	8.00
Deed	<u>8.00</u>
Total	\$40.67

Recommendation: Sell to Zoltan Jaszberenyi for \$40.67. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$50.00.

Prentiss Township, Penobscot County

Map PE038, Plan 04, Lot 37 195400355
 Randolph Toby 6.40 Ac. w/Bldg.

TAX LIABILITY

1993	\$48.98
1994	71.64
1995	60.84
1996 (estimated)	<u>60.84</u>

Estimated Total Taxes	\$242.30
Interest	11.19
Costs	16.00
Deed	<u>8.00</u>
Total	\$277.49

Recommendation: Sell to Randolph Toby for \$277.49. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$300.00.

Greenfield Township, Penobscot County

Map PE039, Plan 08, Lot 55A 192700314
 George Jordan, Jr. 2.20 Acres

TAX LIABILITY

1993	\$74.92
1994	71.16
1995	60.43
1996 (estimated)	<u>60.43</u>

Estimated Total Taxes	\$266.94
Interest	15.10
Costs	16.00
Deed	<u>8.00</u>

Total \$306.04

Recommendation: Sell to George Jordan, Jr. for \$306.04. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$325.00.

Orneville Township, Piscataquis County

Map PI082, Plan 02, Lot 34.1 218210541

Bradley and Audrey Stone 39.00 Ac. w/Bldg.

TAX LIABILITY

1993	\$53.46
1994	226.89
1995	215.00
1996 (estimated)	<u>215.00</u>

Estimated Total Taxes	\$710.35
Interest	50.41
Costs	16.00
Deed	<u>8.00</u>

Total \$784.76

Recommendation: Sell to Bradley and Audrey Stone for \$784.76. If they do not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$800.00.

T2 R1 BKP WKR, Somerset County

Map SO001, Plan 02, Lot 49.2 258310292

Robert A. Tenney 9.96 Acres

TAX LIABILITY

1993	\$67.32
1994	62.67
1995	61.07
1996 (estimated)	<u>61.07</u>

Estimated Total Taxes	\$252.13
Interest	13.51

Costs	16.00
Deed	<u>8.00</u>
Total	\$289.64

Recommendation: Sell to Robert A. Tenney for \$289.64. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$300.00.

Trescott Township, Washington County

Map WA032, Plan 02, Lot 92	298110278
Charles Morrill, Jr.	11.50 Acres

TAX LIABILITY

1993	\$271.83
1994	258.05
1995	251.41
1996 (estimated)	<u>251.41</u>

Estimated Total Taxes	\$1,032.70
Interest	54.84
Costs	16.00
Deed	<u>8.00</u>

Total \$1,111.54

Recommendation: Sell to Charles Morrill, Jr. for \$1,111.54. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$1,125.00.

T21 ED, Washington County

Map WA033, Plan 06, Lots 9, 11	293400096
Charles Crouse	0.90 Ac. w/Bldg.

TAX LIABILITY

1993	\$100.36
1994	110.46
1995	107.62
1996 (estimated)	<u>107.62</u>

Estimated Total Taxes	\$426.06
Interest	21.03
Costs	16.00
Deed	<u>8.00</u>

Total \$471.09

Recommendation: Sell to Charles Crouse for \$471.09. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$475.00.

T21 ED, Washington County

Map WA033, Plan 06, Lot 10	293400097
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Charles Crouse	0.14 Acre
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TAX LIABILITY

1993	\$17.15
1994	31.47
1995	30.66
1996 (estimated)	<u>30.66</u>

Estimated Total Taxes	\$109.94
Interest	4.24
Costs	16.00
Deed	<u>8.00</u>

Total \$138.18

Recommendation: Sell to Charles Crouse for \$138.18. If he does not pay this amount within 60 days of the effective date of this resolve, sell to the highest bidder for not less than \$150.00.

See title page for effective date.

CHAPTER 65

H.P. 1254 - L.D. 1723

Resolve, Authorizing the Sale by the State of a Certain Parcel of Land to Joseph Squeglia

Sec. 1. State authorized to sell property.

Resolved: That the State shall convey to Joseph Squeglia, by sale, property in Salem Township, Franklin County, shown on Map FR027, Plan 05, Lot 19, upon payment of back taxes, interest and other related costs on the property as determined by the Bureau of Taxation. Conveyance of the property must take place within 60 days of the effective date of this resolve.

See title page for effective date.

CHAPTER 66**H.P. 1345 - L.D. 1840****Resolve, for Laying the County
Taxes and Authorizing Expenditures
of Piscataquis County for the Year
1996**

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 and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Piscataquis County has certain expenses and liabilities that must be met as they become due; and

Whereas, it is necessary that the taxes for the year 1996 be immediately assessed in order to provide the required revenue for the county; 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

Sec. 1. Piscataquis County; taxes apportioned. Resolved: That the following sum is granted as a tax on Piscataquis County to be apportioned, assessed, collected and applied to the purposes of paying debts and necessary expenses of the county as authorized in this resolve, and for other purposes of law, for the calendar year 1996:

1996 TAX

\$1,519,658

; and be it further

Sec. 2. General Fund expenditures authorized. Resolved: That the following sums, based on the county budget filed in the office of the Secretary of State, are authorized as General Fund expenditures by the county during the calendar year 1996, in the specific total amounts of expenditures for personal services, contractual services, commodities

and capital expenditures for each account in the county budget:

**APPROPRIATION
ACCOUNT
NUMBER****APPROPRIATIONS**

1000 - District Court Personal Services	\$6,760
1005 - Superior Court Personal Services Contractual Services	3,000 8,000
1010 - Emergency Management Agency Personal Services Contractual Services Commodities Capital Expenditures	8,000 3,975 2,165 600
1015 - District Attorney Personal Services Contractual Services Commodities Capital Expenditures	48,956 19,700 2,700 7,750
1020 - County Commissioners Personal Services Contractual Services Commodities Capital Expenditures	58,671 16,460 1,550 1,000
1025 - County Treasurer Personal Services Contractual Services Commodities Capital Expenditures	20,017 5,375 1,000 1,000
1030 - Labor Relations Contractual Services	10,000
1035 - Courthouse Personal Services Contractual Services Commodities Capital Expenditures	6,100 17,750 8,290 10,000
1040 - Courthouse Annex Personal Services Contractual Services Commodities	12,947 9,484 5,300
1050 - Jail Personal Services Contractual Services Commodities Capital Expenditures	314,491 83,750 63,100 800
1065 - Register of Deeds Personal Services Contractual Services Commodities	54,094 36,075 1,600

1070 - Register of Probate	
Personal Services	50,113
Contractual Services	13,000
Commodities	2,950
Capital Expenditures	1,000
1075 - Sheriff	
Personal Services	319,158
Contractual Services	65,000
Commodities	7,000
Capital Expenditures	35,250
1076 - Tri-County Task Force	
Personal Services	33,052
1080 - Advertising and Promotion	
Contractual Services	3,000
1090 - Auditing	
Contractual Services	5,000
1095 - Debt Service	
Contractual Services	251,926
2000 - Interest Expense	
Contractual Services	7,000
2005 - Extension Service	
Personal Services	15,700
Contractual Services	5,410
Commodities	1,825
2025 - Employee Benefits	
Contractual Services:	
Social Security	74,335
Maine State Retirement System	18,200
Blue Cross - Blue Shield	222,500
Unemployment Compensation	10,000
Accrued Sick Leave	5,000
2045 - Program Grants	
Contractual Services:	
Womancare	1,600
Charlotte White Center	800
Little Red Schoolhouse	800
Penquis Community Action Program	4,500
Eastern Maine Development Corporation	6,080
Piscataquis Soil and Water Conservation	400
Heart of Maine	1,000
Cops Fast	11,260
2050 - Insurance	
Contractual Services	63,700

TOTAL GENERAL FUND \$2,087,019

; and be it further

Sec. 3. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1996. The following is a summary of revenues and appropriations:

Total Appropriations	\$2,087,019
Overlay	5,731
Available Credits:	
Estimated Revenue	\$433,092
Community Corrections	60,000
Surplus Transfer	80,000
Total Available Credits	573,092
Amount to be Raised by Taxation	<u>\$1,519,658</u>

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

Effective March 28, 1996.

CHAPTER 67

H.P. 1348 - L.D. 1845

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1996

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 and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Penobscot County has certain expenses and liabilities that must be met as they become due; and

Whereas, it is necessary that the taxes for the year 1996 be immediately assessed in order to provide the required revenue for the county; 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

Sec. 1. Penobscot County; taxes apportioned. Resolved: That the following sum is granted as a tax on Penobscot County to be apportioned, assessed, collected and applied to the purposes of paying debts and necessary expenses of the county as authorized in this resolve, and for other purposes of law, for the calendar year 1996:

1996 TAX

\$5,140,843.75

; and be it further

Sec. 2. General Fund expenditures authorized. Resolved: That the following sums, based on the county budget filed in the office of the Secretary of State, are authorized as General Fund expenditures by the county during the calendar year 1996, in the specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for each account in the county budget:

APPROPRIATION

ACCOUNT

NUMBER APPROPRIATIONS

1 -	District Court	
	Personal Services	\$43,260
	Contractual Services	20,500
	Commodities	1,100
2 -	Superior Court	
	Personal Services	65,318
	Contractual Services	19,099
	Commodities	1,350
3 -	Emergency Management Agency	
	Personal Services	25,303
	Contractual Services	39,900
	Commodities	1,500
	Capital Expenditures	4,000
4 -	Telecommunications	
	Personal Services	227,794
	Contractual Services	68,292
	Commodities	1,860
	Capital Expenditures	56,600
5 -	District Attorney	
	Personal Services	159,783
	Contractual Services	101,567
	Commodities	7,000
	Capital Expenditures	22,500

6 -	County Commissioners	
	Personal Services	105,962
	Contractual Services	50,036
	Commodities	2,500
	Capital Expenditures	1,000
7 -	County Treasurer	
	Personal Services	6,527
	Contractual Services	6,310
	Commodities	1,050
	Capital Expenditures	1,425
8 -	County Buildings	
	Personal Services	128,140
	Contractual Services	283,825
	Commodities	90,375
	Capital Expenditures	2,000
9 -	Jail	
	Personal Services	1,817,967
	Contractual Services	744,540
	Commodities	247,750
	Capital Expenditures	14,000
10 -	Register of Deeds	
	Personal Services	108,876
	Contractual Services	147,478
	Commodities	6,950
	Capital Expenditures	400
11 -	Register of Probate	
	Personal Services	134,315
	Contractual Services	79,324
	Commodities	7,600
	Capital Expenditures	16,400
12 -	Sheriff	
	Personal Services	639,047
	Contractual Services	244,202
	Commodities	23,950
	Capital Expenditures	115,800
13 -	Civil Process	
	Personal Services	120,086
	Contractual Services	24,499
	Commodities	1,920
	Capital Expenditures	4,700
14 -	Roads and Mapping	
	Personal Services	25,303
	Contractual Services	7,418
	Commodities	1,600
	Capital Expenditures	4,500
15 -	Workplace Safety	
	Contractual Services	1,000
	Commodities	2,000
	Capital Expenditures	2,000
16 -	Debt Service	
	Debt Expenditures	434,775

17 -	Employee Benefits	
	Contractual Services:	
	Unemployment Compensation	15,000
	Maine State Retirement System	77,500
	Social Security	291,000
22 -	Insurance	
	Contractual Services	238,314
24 -	Bridge	
	Contractual Services	100
30 -	Program Grants	
	Contractual Services:	
	Eastern Maine	
	Development Corporation	47,000
	Katahdin Regional	
	Development Corporation	18,000
	Newport Regional	
	Development Corporation	18,000
	Heart of Maine	3,000
	Northern Maine	
	Regional Planning	520
	Bangor Public Library	5,000
34 -	Shaw House	3,600
	Green Valley Association	5,000
35 -	County Extension Service	68,471
36 -	Penquis Community Action	15,000
38 -	Soil Conservation District	21,748
44 -	Rape Response Services	1,250
46 -	Bangor Area Shelter	6,000
31 -	Interest Expense	
	Contractual Services	70,000
32 -	Building Improvement	
	Capital Expenditures	65,000
40 -	Wage Adjustment	
	Contractual Services	100,000
	TOTAL GENERAL FUND	\$7,593,779

; and be it further

Sec. 3. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1996. The following is a summary of revenues and appropriations:

Total Appropriations	\$7,593,779.00
Overlay	1,515.75
Available Credits:	

Estimated Revenue	\$1,625,851
Community Corrections	300,000
Transfer from Surplus	528,600
Total Available Credits	2,454,451.00

Amount to be Raised by Taxation \$5,140,843.75

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

Effective March 28, 1996.

CHAPTER 68

H.P. 1294 - L.D. 1776

Resolve, to Require Additional Promotion of the Maine Quality Seal

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

Whereas, the future of Maine's dairy farms is threatened by possible changes in the Federal Milk Marketing Order program, increasing competition from other regions of the country and increasing prices for fertilizer and feed; and

Whereas, it is believed that the Maine Certification Trademark, referred to in this resolve as the "Maine Quality Seal," connotes the important benefits of freshness and high quality of home-produced dairy products; and

Whereas, it is believed that there has recently been inadequate promotion of the Maine Quality Seal; 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

Sec. 1. Additional promotion. Resolved: That the Maine Dairy Promotion Board, referred to in this resolve as the "board," shall increase the promotion of the Maine Quality Seal in relation to Maine dairy products; and be it further

Sec. 2. Seal color. Resolved: That the Commissioner of Agriculture, Food and Rural Resources shall determine whether the color

guidelines regarding the seal can be relaxed or eliminated; and be it further

Sec. 3. Promotion goals. Resolved: That the board shall set specific goals for this promotion in keeping with the overall objectives of increasing consumer awareness of the seal to result in greater use of the seal by milk processors. One goal must be the desired objective regardless of funding and one goal must be the objective obtainable with existing funding. The board shall conduct activities that are necessary to set these goals and measure the program against those goals; and be it further

Sec. 4. Review. Resolved: That the board shall give the Commissioner of Agriculture, Food and Rural Resources the opportunity to review and comment on all activities required by this resolve. If the board becomes a nongovernmental agency, the commissioner shall work with the board to complete the activities of this resolve; and be it further

Sec. 5. Deadline. Resolved: That the board shall begin additional promotion of the Maine Quality Seal no later than 180 days after the effective date of this resolve; and be it further

Sec. 6. Transfer of funds. Resolved: That the Department of Agriculture, Food and Rural Resources shall transfer \$50,000 from the Maine Dairy Farm Stabilization Fund to the Maine Dairy Promotion Board to be used toward the expenses incurred for promotion of the Maine Quality Seal; and be it further

Sec. 7. Allocation. Resolved: That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

1996-97

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

Maine Dairy Promotion Board

All Other	\$50,000
Provides funds transferred from the Maine Dairy Farm Stabilization Fund to the Maine Dairy Promotion Board to increase promotion of the Maine Quality Seal for the Maine dairy industry.	

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

Effective April 2, 1996.

CHAPTER 69

H.P. 1296 - L.D. 1778

**Resolve, to Require the Department
of Agriculture, Food and Rural
Resources to Take Various Actions in
Support of the Dairy Industry**

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

Whereas, the Commission to Study Options for Preserving the Dairy Industry in the State has developed a number of findings that require timely action by the Department of Agriculture, Food and Rural Resources; 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

Sec. 1. Agricultural research. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, in this resolve referred to as the "commissioner," shall investigate the potential to work with other northeastern states on the development and implementation of a program to apportion agricultural research among the land grant colleges in the different states with the goals of encouraging specialization and avoiding duplication; and be it further

Sec. 2. Energy costs. Resolved: That the commissioner shall work with the utility companies, the Department of Economic and Community Development and the State Planning Office to:

A. Continue the discussion of the Commission to Study Options for Preserving the Dairy Industry in the State with Central Maine Power Company regarding stray voltage in dairy barns, diesel deferral rates and the differences in rates offered to residential and commercial customers;

B. Initiate similar discussions with other providers of electric service and initiate discussions regarding rates with other energy suppliers, including suppliers of natural gas; and

C. Identify and attempt to resolve suppliers' other energy issues as they affect dairy farms; and be it further

Sec. 3. Value-added products. Resolved:

That the commissioner shall coordinate with the Cooperative Extension Service, the Maine Agricultural Experiment Station, the Maine Science and Technology Foundation, the Commission on Biotechnology and Genetic Engineering and the Department of Economic and Community Development to learn the new dairy product interests of businesses in this State and to work cooperatively with other states, particularly Vermont, to develop products and that the commissioner keep dairy industry businesses aware of value-added research and development activities; and be it further

Sec. 4. Promotion regulation. Resolved:

That the commissioner shall work with the Maine Milk Commission to see that dairy promotions are rejected only when there has been an affirmative finding that the promotion is destructive of minimum milk prices; and be it further

Sec. 5. Farm clearinghouse. Resolved:

That the commissioner shall establish a clearinghouse at which persons interested in selling farms and persons interested in buying farms may register those interests; and be it further

Sec. 6. Support groups. Resolved:

That the commissioner shall work with the Department of Economic and Community Development and the Cooperative Extension Service to develop a plan to provide on-site farm management mentoring and support to dairy farms, possibly modeled after or utilizing the Service Corps of Retired Executives or the small business development centers and possibly utilizing the undistributed funds from the Maine Dairy Farm Stabilization Fund; and be it further

Sec. 7. Environmental rules. Resolved:

That the commissioner shall work with the Department of Conservation and the Department of Environmental Protection to ensure that proposed rules that affect agriculture be brought to the attention of the Department of Agriculture, Food and Rural Resources and the joint standing committee of the Legislature having jurisdiction over agricultural matters; and be it further

Sec. 8. Trade with Canada. Resolved:

That the commissioner shall work with the Maine Dairy Promotion Board to request that Maine's Congressional delegation attempt to ensure that dairy products are made part of the North American Free Trade Agreement with Canada; and be it further

Sec. 9. Feeding. Resolved: That the commissioner shall request the Maine Agricultural

Experiment Station and the Cooperative Extension Service to assist farmers in developing less costly feeding programs with particular emphasis on better quality forage and the use of intensive grazing; and be it further

Sec. 10. Status reports. Resolved:

That the commissioner shall provide the joint standing committee of the Legislature having jurisdiction over agricultural matters with a written status report concerning the assignments made in this resolve by January 1st of each year. Copies must be sent to the Executive Director of the Legislative Council and the State Law Library. Each report must contain an estimate of when each item will be accomplished and set a program and goals for the following year. Reports after the first report must additionally report on activities of the past year and progress in meeting goals set in the previous report. At the request of the receiving committee, the commissioner shall present an oral report of this information.

In addition to the state report requirements of this section, the following activities have specific deadlines as indicated:

A. The commissioner shall submit a complete plan, including funding recommendations, for on-site farm support groups, as required in section 6, to the joint standing committee of the Legislature having jurisdiction over agricultural matters by January 1, 1997; and

B. In accordance with section 8, within 30 days of the effective date of this resolve, the commissioner shall communicate with the congressional delegation concerning placing dairy products in the North American Free Trade Agreement with Canada.

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

Effective April 2, 1996.

CHAPTER 70

S.P. 752 - L.D. 1865

**Resolve, to Extend the Reporting
Deadline of the Export Financing
Services Study Group**

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

Whereas, the group studying export financing services in the State was unable to complete its report within the time contemplated by Resolve 1995, chapter 17; and

Whereas, this legislation is necessary as an emergency measure to afford adequate time for the issues to be appropriately addressed by the study group; 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

Sec. 1. Resolve 1995, c. 17, §5, first ¶, amended. Resolved: That Resolve 1995, c. 17, §5, first paragraph is amended to read:

Sec. 5. Reporting date. Resolved: That the study group shall submit a written report of its findings and recommendations, together with any implementing legislation on how to improve the availability of, and access to, export finance programs in Maine, to the joint standing committee of the Legislature having jurisdiction over business and economic development matters by January November 1, 1996 ~~and shall make an oral report to that committee by February 1, 1996.~~

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

Effective April 2, 1996.

CHAPTER 71

S.P. 647 - L.D. 1689

Resolve, That the Department of Human Services Convene a Task Force on Paperwork Reduction in Nursing Facilities

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

Whereas, nursing facility staff believe that the amount of paperwork and forms required for patient assessment and care in nursing facilities in this State detracts from the capacity of nurses to care for residents; and

Whereas, the time available for direct patient care in nursing facilities may be increased by coordi-

nating and decreasing the amount of paperwork required of nurses on the Minimum Data Set Plus case mix form, the Medical Eligibility Determination '94 form and any other forms required by state and federal agencies and insurance carriers for patient assessment, care and reimbursement; and

Whereas, coordination of these forms and paperwork is desirable for the benefit of residents of the nursing facilities of 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

Sec. 1. Task force. Resolved: That the Department of Human Services, referred to in this resolve as the "department," shall convene a task force on paperwork reduction in nursing facilities for the purpose of studying the problem of paperwork required for patient assessment, care and reimbursement and the survey process, referred to in this resolve as the "task force." The task force shall study the needs of the patient and family, the nursing and professional staff of the nursing facility, the department and any other interested parties and shall search for methods of meeting the legitimate needs of all parties in the most efficient, efficacious and collaborative manner possible; and be it further

Sec. 2. Membership. Resolved: That, by April 1, 1996, the Commissioner of Human Services shall name to the task force a representative of the long-term care ombudsman program and 5 representatives of the department, representing the Bureau of Elder and Adult Services, the Division of Benefits Management, the Division of Licensure and Certification, the Division of Financial Services and the Muskie Institute Center for Health Policy.

By April 1, 1996, the President of the Senate and the Speaker of the House shall each appoint 3 members of the task force from nominations submitted to them by individuals, associations and nursing facilities. The 3 members must be nurses employed and providing care in long-term care nursing facilities or nurses who represent those nurses. A member who is appointed by the President of the Senate or the Speaker of the House who qualifies at the time of appointment is not disqualified if during the time of service on the task force the member changes employment or status and that member may continue to serve for the duration of the task force. These appointed nurses shall name another nurse, similarly qualified, to serve as a full member of the task force and as chair.

Except the chair, any task force member who is unable to attend a task force meeting may be represented at the meeting by a person named by that member; and be it further

Sec. 3. Meetings; chair; confidential information. Resolved: That the task force shall meet by April 15, 1996 and after that date as necessary to accomplish its duties. All meetings of the task force are public meetings within the meaning of the Maine Revised Statutes, Title 1, chapter 13, subchapter I. All information confidential to a resident or nursing facility must be maintained as confidential by the task force. At the beginning of its work, the task force shall convene at least one meeting at which interested parties and the general public are invited to address the task force; and be it further

Sec. 4. Staffing. Resolved: That the department shall provide staffing assistance to the task force; and be it further

Sec. 5. Voluntary service. Resolved: That members of the task force serve without compensation or reimbursement of any type; and be it further

Sec. 6. Reports. Resolved: That the task force shall submit to the Joint Standing Committee on Human Resources an interim report by July 15, 1996 and a final report by November 15, 1996. The final report must contain suggestions for changes in rules and the necessary legislation to accomplish the recommendations of the task force. Changes in practice or amendment of departmental rule to accomplish the purposes of this resolve may be made prior to the final report date.

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

Effective April 3, 1996.

CHAPTER 72

H.P. 1310 - L.D. 1794

Resolve, Directing the Land and Water Resources Council to Take Steps Needed to Ensure Successful Implementation of State Land Use Law Reforms

Preamble. Whereas, the 116th Legislature established the Land and Water Resources Council, in part as a means to ensure coordinated, efficient and effective implementation of state land use and environmental laws; and

Whereas, by Resolve 1995, chapter 21, the 117th Legislature directed the Land and Water Resources Council to develop alternatives to the site location of development laws, which protect the environment, and to improve the effectiveness and efficiency of those laws; and

Whereas, in fulfilling its obligations under Resolve 1995, chapter 21, the Land and Water Resources Council recognizes the need to assess the impact of development sprawl on the fiscal resources of municipal and state government and the State's natural resources; now, therefore, be it

Sec. 1. Cost of development. Resolved: That the Land and Water Resources Council shall conduct a review of state, regional and municipal policies, programs and other activities that influence the cost of development, redevelopment and related public services and affect land use and development patterns. The Land and Water Resources Council shall recommend measures, such as impact fees, differential tax incentives and cumulative impact criteria that will encourage development patterns that are more compact and less costly to taxpayers; and be it further

Sec. 2. Report to the Legislature. Resolved: That the Land and Water Resources Council shall report recommendations made pursuant to section 1, including any proposed legislation, as part of its January 1997 annual report.

See title page for effective date.

CHAPTER 73

H.P. 1335 - L.D. 1829

Resolve, to Name a Portion of Highway in Millinocket in Honor of Prisoners of War and Those Designated as Missing in Action and to Name Portions of Roads That Follow the St. George River

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

Whereas, the erection of the sign designating part of Route 157 in Millinocket as a "POW-MIA Highway" will take place on Memorial Day; 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

Sec. 1. Naming Route 157 in Millinocket.

Resolved: That the portion of Route 157 extending east from the Central Street Bridge in Millinocket to the Millinocket town line near Dolby Flowage be designated as a "POW-MIA Highway" in memory of prisoners of war and those designated as missing in action and that plaques designed and created by the Katahdin Region Detachment #831 of the Marine Corps League be erected near the terminal points to indicate this designation; and be it further

Sec. 2. Naming portions of Route 173, Route 131, Route 235 and Route 90 between Town of Montville and Town of Port Clyde.

Resolved: That the route from the Town of Montville and the Town of Port Clyde as described in this section be named "Georges River Scenic Byway." The route consists of that portion of Route 173 beginning in the Town of Montville at its junction with Route 3 and proceeding southeasterly to its junction with Route 131 in the Town of Searsmont; that portion of Route 131 beginning at its junction with Route 173 in the Town of Searsmont and proceeding southerly to its junction with Route 235 in the Town of Union; that portion of Route 235 beginning at its junction with Route 131 in the Town of Union and proceeding southerly to its intersection with the Western Road in the Town of Warren; that portion of the Western Road in the Town of Warren beginning at its intersection with Route 131 and proceeding southerly to its intersection with Route 90; that portion of Route 90 beginning at its intersection with the Western Road and proceeding easterly to its junction with Route 131; and that portion of Route 131 beginning at its junction with Route 90 and proceeding southerly to its terminus in the Town of Port Clyde. The Georges River Land Trust, in consultation with the Department of Transportation, may create plaques and erect them along the route to designate this route as the Georges River Scenic Byway.

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

Effective April 3, 1996.

CHAPTER 74

S.P. 772 - L.D. 1889

Resolve, to Validate the Reform Party Petition

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

Whereas, the number of certified signatures required to be filed in order to form a new party pursuant to the provisions of the Maine Revised Statutes, Title 21-A, section 303, subsection 3, is 25,565; and

Whereas, on January 4, 1996, the Secretary of State acknowledged 25,050 properly certified signatures submitted by individuals intending to form the Reform Party; and

Whereas, the registrars in the municipalities of Bangor, Brunswick, Portland, Old Town, Saco, Westbrook and Windham have stipulated that there are at least 520 additional signatures that should have been certified on December 14, 1995; and

Whereas, this legislation is immediately necessary to allow the Reform Party to participate in the June 1996 primary election, and in all other electoral activities available to political parties during 1996 as long as the Reform Party complies with the applicable 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

Sec. 1. Requirements fulfilled. Resolved:

That the Reform Party is deemed to have fulfilled the requirements of the Maine Revised Statutes, Title 21-A, section 303, subsection 3; and be it further

Sec. 2. Extension for conducting municipal caucuses. Resolved: That the deadline for the Reform Party for conducting the municipal caucuses required pursuant to the Maine Revised Statutes, Title 21-A, section 303, subsection 4, is extended to April 27, 1996; and be it further

Sec. 3. Extension for filing notice. Resolved: That the deadline for the Reform Party for filing a copy of the notice required pursuant to the Maine Revised Statutes, Title 21-A, section 303, subsection 4, is extended to May 10, 1996; and be it further

Sec. 4. Extension for filing primary petition. Resolved: That the deadline for the Reform Party for filing a primary petition required pursuant to the Maine Revised Statutes, Title 21-A, section 335, subsection 8, is extended to April 27, 1996; and be it further

Sec. 5. Extension for notification of Secretary of State. Resolved: That the deadline for the Reform Party for notifying the Secretary of State of the enrollment qualifications for voters eligible to vote in the Reform Party's primary, required pursuant to the Maine Revised Statutes, Title 21-A, section 340, subsection 1, is extended to April 27, 1996; and be it further

Sec. 6. Extension for candidate enrollment. Resolved: That the deadline for the enrollment of a candidate for the Reform Party in the party named in the primary petition for which the candidate seeks nomination by primary election, required pursuant to the Maine Revised Statutes, Title 21-A, section 334, is extended to April 27, 1996; and be it further

Sec. 7. Enrollment in party. Resolved: That a voter who filed an application to change enrollment to the Reform Party prior to January 1, 1996, and who subsequently did not withdraw that enrollment or enroll in another party is deemed to have fulfilled the requirement of the Maine Revised Statutes, Title 21-A, section 144, subsection 3, for purposes of filing a petition as a candidate in this election year.

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

Effective April 5, 1996.

CHAPTER 75

H.P. 1210 - L.D. 1660

Resolve, to Review the Role of the Department of Administrative and Financial Services in Approving School Construction Projects for School Administrative Units

Sec. 1. Study group established. Resolved: That the Commissioner of Education shall convene a study group to review and consider improvements to the current role of the Department of Administrative and Financial Services, Bureau of General Services in approving school construction projects. The following entities shall each appoint one representative to serve on the study group: the Department of Education; the Department of Administrative and Financial Services, Bureau of General Services; the Maine School Management Association; a statewide professional engineering association selected by the commissioner; and a statewide professional architectural association selected by the commissioner. Other members may be appointed at

the discretion of the commissioner. The study group shall present its report, together with any recommended legislation, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 15, 1996. Members of the study group must participate at their own expense.

See title page for effective date.

CHAPTER 76

H.P. 1257 - L.D. 1729

Resolve, to Require the Study of the Medical Liability Prelitigation Screening Panels

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

Whereas, analysis of existing data on the use of mandatory prelitigation screening and mediation panels is necessary in order for the Legislature to make informed decisions regarding the panel process; and

Whereas, compilation of that data must begin promptly so that a qualified researcher can analyze the data and make recommendations on future data collection to the First Regular Session of the 118th 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

Sec. 1. Data assembly. Resolved: That the Bureau of Insurance shall collect and compile data related to the number and disposition of malpractice claims over the past 5 calendar years from the records of the Bureau of Insurance and, if necessary, the records of medical malpractice insurers. The Bureau of Insurance, referred to in this resolve as "the bureau," shall request that the Chief Justice of the Superior Court assist in providing data or access to data concerning the use of mandatory prelitigation and mediation screening panels and the final disposition of cases over the same period. The bureau is authorized to collect this data notwithstanding any applicable confidentiality provisions in the Maine Revised Statutes, Title 24, sections 2853 and 2857. The bureau shall compile this data into a summary report; and be it further

Sec. 2. Study; future data collection.

Resolved: That the Superintendent of Insurance shall retain a research consultant to analyze the data compiled under section 1 of this resolve and to make recommendations for the collection of data for future study.

1. Study. The research consultant shall use the data compiled by the bureau under section 1 of this resolve as the basis for a study on the effectiveness of the prelitigation screening panel process required by the Maine Health Security Act. The results of this study and the summary report prepared by the bureau must be submitted to the joint standing committee of the Legislature having jurisdiction over judiciary matters by February 15, 1997.

2. Subject. To the extent possible, but subject ultimately to the discretion of the bureau, this study must, without limitation, measure whether the prelitigation screening panel process:

- A. Effectively promotes early recovery for those injured by professional negligence;
- B. Effectively promotes early withdrawal or dismissal of nonmeritorious claims;
- C. Reduces the value of recovery or impairs access to recovery for meritorious claimants; and
- D. Has an impact on the cost of health care or medical liability insurance.

3. Additional data and future study design. In addition, the research consultant shall provide a written report to the bureau by March 1, 1997 containing recommendations for the collection of data to be used for future analysis of the effectiveness of the panels. These recommendations may involve changes to the confidentiality provisions regarding panel proceedings, requiring the parties to submit additional information and other changes necessary for collecting data relevant to the effectiveness of the panels. The bureau shall draft the legislation necessary to implement the consultant's recommendations. The bureau shall submit copies of the consultant's report and the necessary implementing legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by March 15, 1997.

4. Confidentiality. Notwithstanding the Maine Revised Statutes, Title 24, sections 2853 and 2857, the research consultant may review any pleadings, findings, writings, statements, evidence or discovery retained by the Superior Court. The research consultant may also review any information received by the bureau under Title 24, chapter 21, subchapter II and data collected by the bureau pursuant to section 1 of this resolve. The research consultant may not disclose

any information that directly or indirectly identifies or permits identification of the provider or the claimant. The bureau shall ensure that the research consultant has an established protocol for maintaining the confidentiality of all information obtained in the course of developing the study design. The research consultant may not review or retain any confidential information after March 1, 1997; and be it further

Sec. 3. Advisory committee. Resolved:

That the Superintendent of Insurance shall convene an advisory committee made up of interested parties including, but not limited to, representatives of consumer, medical and legal interest groups and medical malpractice insurers to provide advice on the subject of the study and the data requirements for future study. Members of the advisory committee serve without compensation and are not entitled to reimbursement for expenses; and be it further

Sec. 4. Allocation. Resolved: That the following funds are allocated from the Insurance Regulatory Fund to carry out the purposes of this resolve.

1996-97

**PROFESSIONAL AND
FINANCIAL REGULATION,
DEPARTMENT OF**

Bureau of Insurance

All Other	\$35,000
Allocates funds for the costs of privately contracting for a study on the effectiveness of medical liability prelitigation screening panels.	

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

Effective April 8, 1996.

CHAPTER 77

H.P. 1369 - L.D. 1878

**Resolve, to Amend the 1995
Kennebec County Budget**

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

Whereas, it is necessary to amend last year's budget resolve for Kennebec County to account for reimbursements that exceeded budgeted amounts for housing state and federal prisoners, and for associated costs that exceeded budgeted amounts; and

Whereas, it is necessary to restore balance in the county budget and make funds available to pay the costs incurred; 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

Sec. 1. Resolve 1995, c. 57, §2, APPROPRIATION ACCOUNT NUMBER 1050, amended. Resolved: That Resolve 1995, c. 57, §2, APPROPRIATION ACCOUNT NUMBER 1050 is amended to read:

1050 - Jail	
Personal Services	1,559,139
Contractual Services	452,383 472,383
Commodities	221,600 249,272
Capital Expenditures	6,600

; and be it further

Sec. 2. Resolve 1995, c. 57, §2, TOTAL GENERAL FUND. Resolved: That Resolve 1995, c. 57, §2, TOTAL GENERAL FUND is amended to read:

TOTAL GENERAL FUND	\$6,405,019	<u>\$6,452,691</u>
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; and be it further

Sec. 3. Resolve 1995, c. 57, §3. Resolved: That Resolve 1995, c. 57, §3 is amended to read:

Sec. 3. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1995. The following is a summary of revenues and appropriations:

Total Appropriations	\$6,405,019	<u>\$6,452,691</u>
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Available Credits:

Estimated Revenue	\$1,094,500
Community Corrections	324,659 372,331
Surplus Transfer	360,000

Total Available Credits	\$1,779,159	<u>\$1,826,831</u>
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Amount to be Raised by Taxation		<u>\$4,625,860</u>
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Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective April 8, 1996.

CHAPTER 78

H.P. 1050 - L.D. 1469

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources to Research the Reinstatement of a State-operated Meat Inspection Program

Sec. 1. Report. Resolved: That, the Commissioner of Agriculture, Food and Rural Resources shall perform the following tasks related to a state meat inspection program and report findings to the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters by February 1, 1997:

1. Appoint the members of a state meat inspection advisory committee to advise the commissioner on the accomplishment of tasks described under subsections 2, 3, 4 and 5. The state meat inspection advisory committee consists of the following 9 members: 3 members who are producers of livestock, 2 members who are representatives of meat processors, 2 members who are representatives of livestock producer organizations, one member who sells meat on the wholesale or retail market and one member who is a consumer. Members serve without compensation;

2. Develop for custom meat processors in this State a hazard analysis critical control point manual that complies with United States Department of Agriculture standards;

3. Develop legislation to establish a hazard analysis critical control point program for meat inspection in this State;

4. Determine the feasibility and criteria for a hazard analysis critical control point pilot project;

5. Negotiate with the United States Department of Agriculture to establish a hazard analysis critical control point pilot project for meat inspection in this State; and

6. Conduct the study to the extent possible within its existing budgeted resources.

See title page for effective date.

CHAPTER 79**H.P. 1316 - L.D. 1800****Resolve, to Recognize the Maine School for the Arts and the Maine High School for the Arts**

Sec. 1. Prohibition. Resolved: That the Legislature intends that no other organization may operate or incorporate using a name that is the same as, or deceptively similar to, the Maine School for the Arts/Maine High School for the Arts unless or until the corporate name is no longer protected under the Maine Revised Statutes, Title 13-B.

See title page for effective date.

CHAPTER 80**H.P. 1329 - L.D. 1821****Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in Certain Real Estate and Personal Property Held by Various State Agencies at 6 Locations**

Sec. 1. Definitions. Resolved: As used in this resolve, unless the context otherwise indicates, the following terms have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. State property. "State property" means the real estate described in section 3 of this resolve with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies; and be it further

Sec. 2. Authority to convey real estate. Resolved: That the State, through the commissioner, may:

1. Enter into a lease or leases or to convey by sale the interests of the State in state property;

2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

3. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, the power of eminent domain to quiet for all time any possible challenges to ownership of the state property;

4. Negotiate, draft, execute and deliver any easements or other rights that, in the commissioner's discretion, may contribute to the value of a proposed sale or lease of the State's interests; and

5. Release any interests in the state property that, in the commissioner's discretion, do not contribute to the value of the remaining state property; and be it further

Sec. 3. Property interests that may be conveyed. Resolved: That the state properties authorized to be sold or leased are the following:

1. Oak Grove Coburn School Property, Vassalboro, Kennebec County Registry of Deeds Book 3976, Page 35 and Book 4153, Page 326;

2. 3 St. John Street, Portland, Cumberland County Registry of Deeds Book 1513, Page 233;

3. Wade Street, Augusta, Kennebec County Registry of Deeds Book 1450, Page 406, designated Lot 97 on City of Augusta Tax Map 27;

4. Cony Road, Augusta, Kennebec County Registry of Deeds, portion of Book 229, Page 374, portion of Lot 32 on City of Augusta Tax Map 10;

5. Winthrop Street, Hallowell, Kennebec County Registry of Deeds Book 560, Page 536; Book 731, Page 325; Book 1483, Page 784; and designated Lot 23, on Town of Hallowell Tax Maps 6 and 7; and

6. Bath Children's Home Property, originally known as the "Bath Military and Naval Orphans' Asylum," reference Resolves, 1869, chapter 86 and Sagadahoc County Registry of Deeds Book 33, Page 59; Book 33, Page 60; Book 33, Page 444; Book 33, Page 270; Book 33, Page 268; Book 64, Page 328; and Book 72, Page 576, pursuant to Resolves 1887, chapter 95.

The state property may be sold in whole or in part, in the discretion of the commissioner, subject to such permits or approvals as may be required by law; and be it further

Sec. 4. Property to be sold "as is." Resolved: That the commissioner may negotiate and execute leases and purchase and sale agreements upon those terms the commissioner considers appropriate; however, the state property must be sold "as is," with no representations or warranties.

Title must be transferred by quitclaim deed without covenant (release deed) and executed by the commissioner; and be it further

Sec. 5. Exemptions. Resolved: That any lease or conveyance pursuant to this resolve is exempt from any statutory or regulatory requirement that the

property first be offered to the Maine State Housing Authority or another state or local agency; and be it further

Sec. 6. Purchase price. Resolved: That the commissioner shall have the current market value of the state property determined by an independent appraiser. The commissioner may list the properties for sale or lease with private real estate brokers at their appraised value and negotiate sales or leases, solicit bids, sell directly to purchasers or enter directly into leases with tenants. The commissioner may reject any offers.

The commissioner shall establish the rent or purchase price and the terms of lease or sale.

If the commissioner elects to solicit bids, the commissioner shall publish notices of sale sufficient to advertise the properties. The commissioner may reject any bids; and be it further

Sec. 7. Carrying balance. Resolved: That the Bureau of General Services, Department of Administrative and Financial Services, is authorized to carry forward the net proceeds from the sale or lease of state property, not to exceed \$500,000, for the purpose of retaining necessary professional services and to pay other costs related to the preparation and sale of state property. The amount of proceeds in excess of \$500,000 but not more than \$1,000,000 must be deposited in the Reserve Fund for State House Preservation and Maintenance. Any amount of proceeds in excess of \$1,000,000 must be deposited in the General Fund as undedicated revenue. The funds must be deposited into the "Other Special Revenue Account - Public Improvements - Planning - Construction - Administration, Bureau of General Services." The unexpended balance must be carried forward and expended for the purpose for which it is intended; and be it further

Sec. 8. Allocation. Resolved: That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

1996-97

**ADMINISTRATIVE AND
FINANCIAL SERVICES,
DEPARTMENT OF**

**Public Improvements - Planning -
Construction - Administration,
Bureau of General Services**

All Other	\$10,000
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Allocates funds to provide spending authority for costs related to the preparation and sale of state property.

Sec. 9. Sunset provision. Resolved: That this resolve is repealed 3 years from its effective date.

See title page for effective date.

CHAPTER 81

S.P. 760 - L.D. 1872

**Resolve, to Secure a Release of
Property from the State**

Sec. 1. Authority to convey land. Resolved: That the Director of the Bureau of Parks and Lands may convey and release the State's interest for an amount not to exceed \$12,240 in the following property subject to acceptance by Rosalia Arlt:

Certain parcels of land, situated in the Town of Richmond, County of Sagadahoc, State of Maine, and identified as Tax Map R-6, Lot 67 and Lot 68.

See title page for effective date.

CHAPTER 82

H.P. 1373 - L.D. 1881

**Resolve, for Laying of the County
Taxes and Authorizing Expenditures
of Kennebec County for the Year
1996**

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 and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Kennebec County has certain expenses and liabilities that must be met as they become due; and

Whereas, it is necessary that the taxes for the year 1996 mentioned be immediately assessed in order to provide the required revenue for the county; 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

Sec. 1. Kennebec County; taxes apportioned. Resolved: That the following sum is granted as a tax on Kennebec County to be apportioned, assessed, collected and applied to the purposes of paying debts and necessary expenses of the county as authorized in this resolve, and for other purposes of law, for the calendar year 1996:

1996 TAX

\$4,826,398

; and be it further

Sec. 2. General Fund expenditures authorized. Resolved: That the following sums, based on the county budget filed in the office of the Secretary of State, are authorized as General Fund expenditures by the county during the calendar year 1996, in the specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for each account in the county budget:

APPROPRIATION

ACCOUNT

NUMBER APPROPRIATIONS

1005 - Superior Court	
Contractual Services	\$14,100
1010 - Emergency Management Agency	
Personal Services	20,744
Contractual Services	5,150
Commodities	1,750
1015 - District Attorney	
Personal Services	176,172
Contractual Services	59,550
Commodities	12,700
Capital Expenditures	8,665
1020 - County Commissioners	
Personal Services	49,473
Contractual Services	6,620
Commodities	1,450
1025 - County Treasurer	
Personal Services	35,404
Contractual Services	4,625

Commodities	2,500
Capital Expenditures	130
1040 - Court House	
Personal Services	65,904
Contractual Services	67,628
Commodities	19,000
1050 - Jail	
Personal Services	1,620,783
Contractual Services	453,421
Commodities	250,800
Capital Expenditures	4,400
1065 - Register of Deeds	
Personal Services	145,414
Contractual Services	203,000
Commodities	12,750
1070 - Register of Probate	
Personal Services	133,345
Contractual Services	27,225
Commodities	11,900
Capital Expenditures	8,500
1075 - Sheriff	
Personal Services	653,381
Contractual Services	137,852
Commodities	31,590
Capital Expenditures	86,052
1090 - Auditing	
Contractual Services	4,000
1095 - Debt Service	
Contractual Services:	
Tax Anticipation Notes	105,000
Bond (Principal and Interest)	916,000
Legal Services	4,500
2005 - Extension Services	
Contractual Services	28,125
2025 - Employee Benefits	
Contractual Services:	
Health Insurance	452,375
Unemployment	20,000
Retirement	49,000
Deferred Compensation	142,000
Social Security	245,000
Workers' Compensation	120,000
2040 - County Copier	
Contractual Services	500
2045 - Program Grants	
Contractual Services:	
Soil and Water	3,500
2050 - Insurance	
Contractual Services	121,000

2075 - Property Improvement Capital Expenditures	30,000
2090 - Miscellaneous Contractual Services: Association Dues	550
Contingency	40,000

TOTAL GENERAL FUND	\$6,613,528
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; and be it further

Sec. 3. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1996. The following is a summary of revenues and appropriations:

Total Appropriations	\$6,613,528
Available Credits:	
Estimated Revenue	\$1,257,130
Community Corrections	210,000
Surplus Transfer	320,000
Total Available Credits	<u>\$1,787,130</u>
Amount to be Raised by Taxation	\$4,826,398

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

Effective April 10, 1996.

CHAPTER 83

H.P. 1374 - L.D. 1883

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1996

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 and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Androscoggin County has certain expenses and liabilities that must be met as they become due; and

Whereas, it is necessary that the taxes for the year 1996 be immediately assessed in order to provide the required revenue for the county; 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

Sec. 1. Androscoggin County; taxes apportioned. Resolved: That the following sum is granted as a tax on Androscoggin County to be apportioned, assessed, collected and applied to the purposes of paying debts and necessary expenses of the county as authorized in this resolve, and for other purposes of law, for the calendar year 1996:

1996 TAX

\$4,584,980

; and be it further

Sec. 2. General Fund expenditures authorized. Resolved: That the following sums, based on the county budget filed in the office of the Secretary of State, are authorized as General Fund expenditures by the county during the calendar year 1996, in the specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for each account in the county budget:

APPROPRIATION

ACCOUNT

NUMBER

APPROPRIATIONS

1005 - Superior Court Contractual Services	\$10,000
1010 - Emergency Management Agency Personal Services	92,723
Contractual Services	5,360
Commodities	1,350
1015 - District Attorney Personal Services	132,340
Contractual Services	18,475
Commodities	9,400
Capital Expenditures	1,300
1018 - District Attorney - Joint Budget Contractual Services	3,491
Commodities	250

1019 - District Attorney - Victim/Witness Grant		Unemployment Compensation	10,000
Personal Services	12,090	Maine State Retirement System	264,000
		FICA	180,000
1020 - County Commissioners		2035 - Soil Conservation	
Personal Services	51,832	Contractual Services	10,000
Contractual Services	28,600		
Commodities	700	2040 - Duplicating Department	
1025 - County Treasurer		Contractual Services	1,000
Personal Services	75,638	Commodities	1,000
Contractual Services	3,775		
Commodities	1,750	2050 - Volunteer Firefighters Insurance	
1040 - County Buildings		Contractual Services	1,023
Personal Services	43,267		
Contractual Services	325,680	TOTAL GENERAL FUND	\$5,749,616
Commodities	30,800		
			; and be it further
1050 - Jail - Support of Prisoners		Sec. 3. Summary. Resolved:	That the
Personal Services	1,343,039		figures appearing in this resolve represent the total
Contractual Services	347,675		amount of taxes and the total specific expenditures
Commodities	208,100		authorized for the calendar year 1996. The following
Capital Expenditures	15,054		is a summary of revenues and appropriations:
1051 - Pretrial Services		Total Appropriations	\$5,749,616
Personal Services	42,520	Overlay	19,742
1065 - Register of Deeds		Available Credits:	
Personal Services	117,728	Estimated Revenue	\$859,378
Contractual Services	91,410	Community Corrections	290,000
Commodities	3,200	Transfer from Surplus	35,000
Capital Expenditures	1,175		
1070 - Register of Probate		Total Available Credits	1,184,378
Personal Services	74,273	Amount to be raised by taxation	\$4,584,980
Contractual Services	19,850		
Commodities	1,100	Emergency clause.	In view of the emergency
1075 - Sheriff			cited in the preamble, this resolve takes effect when
Personal Services	603,163		approved.
Contractual Services	78,200		
Commodities	30,900		
Capital Expenditures	43,300		
1090 - Auditing			
Contractual Services	9,800		
1095 - Debt Service			
Contractual Services	490,000		
2000 - Interest			
Contractual Services	459,375		
2005 - Twin County Extension Service			
Contractual Services	43,160		
2020 - Time and Tide RC&D			
Contractual Services	750		
2025 - Employee Benefits			
Contractual Services:			
Blue Cross/Blue Shield	410,000		

Effective April 10, 1996.

CHAPTER 84**H.P. 1217 - L.D. 1667****Resolve, to Improve Tribal and State Relations****Sec. 1. Task force established. Resolved:**

That the Maine Indian Tribal-State Commission, referred to in this resolve as the "commission," shall establish the Task Force on Tribal-State Relations, referred to in this resolve as the "task force"; and be it further

Sec. 2. Members. Resolved:

That the task force must consist of commission members and any other persons the commission determines necessary or appropriate to serve voluntarily on the task force. The

commission shall consider including as members of the task force the following: representatives of the Passamaquoddy Tribe; representatives of the Penobscot Indian Nation; Legislators serving in the 117th Legislature, in particular members of the Joint Standing Committee on Judiciary and the Joint Standing Committee on Natural Resources; the Attorney General or a representative of the Attorney General; and the Governor or a representative of the Governor.

The commission shall determine the designation or election of the chair of the task force; and be it further

Sec. 3. Duties. Resolved: That the task force shall:

1. Explore ways to improve the relationship between the State and the commission and between the State and federally recognized Indian tribes;

2. Determine the appropriate role that the Houlton Band of Maliseets and the Aroostook Band of Micmacs may or should have in the commission without interfering with the Act to Implement the Maine Indian Claims Settlement. The task force shall consult with and invite the participation of members of the Houlton Band of Maliseets and the Aroostook Band of Micmacs in carrying out the duties under this subsection;

3. Evaluate the general effectiveness of the commission;

4. Engage in other activities to improve tribal-state relations; and

5. Develop recommendations based on subsections 1 to 4; and be it further

Sec. 4. Meetings. Resolved: That the commission shall convene the first meeting of the task force. The task force may meet as often as it determines necessary; and be it further

Sec. 5. Report. Resolved: That by December 15, 1996, the task force shall submit a report of its work and recommendations, along with any draft recommendations for legislation, to the First Regular Session of the 118th Legislature, the joint standing committee of the Legislature having jurisdiction over judiciary matters, the Joint Tribal Council of the Passamaquoddy Tribe, the Governor and Council of the Penobscot Indian Nation, the Houlton Band Council of the Houlton Band of Maliseets and the Aroostook Micmac Council of the Aroostook Band of Micmacs. Any recommendations for legislation must be submitted to the Revisor of Statutes by December 15, 1996 for consideration as legislation during the First Regular Session of the 118th Legislature; and be it further

Sec. 6. Staff and funding. Resolved:

That the commission shall provide staff and funding for the task force. All members of the task force may receive the legislative per diem and reimbursement for expenses as determined by the commission; and be it further

Sec. 7. Freedom of access. Resolved:

That for the purposes of the laws regarding freedom of access, the proceedings of the task force are public; and be it further

Sec. 8. Appropriation. Resolved: That the following funds are appropriated from the General Fund.

1996-97

**MAINE INDIAN TRIBAL-
STATE COMMISSION**

**Maine Indian Tribal-State
Commission**

All Other	\$7,500
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Provides funds for ongoing support of the Maine Indian Tribal-State Commission to fulfill its responsibilities under the Maine Indian Claims Settlement Act of 1980. The commission is requesting the Passamaquoddy Tribe and the Penobscot Nation to match this amount, in keeping with a long-standing agreement to support the financing of the commission on a 50/50 tribal-state basis.

See title page for effective date.

CONSTITUTIONAL RESOLUTIONS OF THE STATE OF MAINE
AS PASSED AT
THE SECOND REGULAR SESSION OF THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE
1995

CHAPTER 3

H.P. 1187 - L.D. 1628

**RESOLUTION, Proposing an
Amendment to the Constitution of
Maine Regarding Municipal
Certification of Direct Initiative
Petitions**

Constitutional amendment. Resolved:

Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

Constitution, Art. IV, Part Third, §20 is amended to read:

Section 20. Meaning of words "electors," "people," "recess of Legislature," "statewide election," "measure," "circulator," and "written petition"; written petitions for people's veto; written petitions for direct initiative. As used in any of the 3 preceding sections or in this section the words "electors" and "people" mean the electors of the State qualified to vote for Governor; "recess of the Legislature" means the adjournment without day of a session of the Legislature; "statewide election" means any election held throughout the State on a particular day; "measure" means an Act, bill, resolve or resolution proposed by the people, or 2 or more such, or part or parts of such, as the case may be; "circulator" means a person who solicits signatures for written petitions, and who must be a resident of this State and whose name must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of the circulator that all of the signatures to the petition were made in the presence of the circulator and that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the official authorized by law to maintain the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of the city, town or plantation of the official as qualified to vote

for Governor. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths. Written petitions for a people's veto pursuant to Article IV, Part Third, Section 17 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the 5th day before the petition must be filed in the office of the Secretary of State, or, if such 5th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Written petitions for a direct initiative pursuant to Article IV, Part Third, Section 18 must be submitted to the appropriate officials of cities, towns or plantations for determination of whether the petitioners are qualified voters by the hour of 5:00 p.m., on the ~~3rd~~ 10th day before the petition must be filed in the office of the Secretary of State, or, if such ~~3rd~~ 10th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday. Such officials must complete the certification of such petitions and must return them to the circulators or their agents within 2 days for a petition for a people's veto and within 5 days for a petition for a direct initiative, Saturdays, Sundays and legal holidays excepted, of the date on which such petitions were submitted to them. The petition shall set forth the full text of the measure requested or proposed. Petition forms shall be furnished or approved by the Secretary of State upon written application signed in the office of the Secretary of State by a resident of this State whose name must appear on the voting list of the city, town or plantation of that resident as qualified to vote for Governor. The full text of a measure submitted to a vote of the people under the provisions of the Constitution need not be printed on the official ballots, but, until otherwise provided by the Legislature, the Secretary of State shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

Constitutional referendum procedure; form of question; effective date. Resolved: That 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 general election, at the next general election in the month of November following passage of this resolution, to vote upon the ratification of the

amendment proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine to require that a direct initiative petition be submitted to local officials earlier than is presently required in order to allow 5 working days rather than 2 working days for local officials to certify the petition?"

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 the 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 amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution on the date of the proclamation; and be it further

Secretary of State shall prepare ballots.

Resolved: That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purpose of this referendum.

Effective pending referendum.

REVISOR'S REPORT
1995

CHAPTER 1

Sec. 1. 5 MRSA §1549, as enacted by PL 1993, c. 385, §1, is corrected to read:

§1549. Contractors to notify State of job openings

The Department of Administrative and Financial Services, Bureau of Accounts and Control, shall ensure that a contract with a nonstate contractor that is approved under section 1541 requires the contractor to notify the Additional Support for People in Retraining and ~~Education~~ Employment Program within the Department of Human Services when the contractor has an employment opening for which members of the public may apply.

EXPLANATION

This section corrects a reference to a program name that was changed by Public Law 1995, chapter 418 to the Additional Support for People in Retraining and Employment Program.

Sec. 2. 5 MRSA §1890-A, as enacted by PL 1985, c. 785, Pt. A, §78, is corrected to read:

§1890-A. Internal services fund accounts

The ~~Office~~ Bureau of Information Services may establish internal services fund accounts. These funds include, but are not limited to, appropriations made to the ~~office~~ bureau, funds transferred to the ~~office~~ bureau from within the department and funds received for data processing and telecommunications planning services rendered to state agencies.

Sec. 3. 5 MRSA §1893, sub-§5, ¶B, as amended by PL 1991, c. 291, §5, is corrected to read:

B. The schedule of charges for services rendered by the ~~Office~~ Bureau of Information Services through its internal services fund accounts; and

Sec. 4. 5 MRSA §1896, first ¶, as amended by PL 1989, c. 857, §43, is corrected to read:

Any state agency or semiautonomous state agency disagreeing with an action or decision of the ~~Office~~ Bureau of Information Services or the deputy commissioner as it affects that agency may appeal the decision in accordance with the provisions of this section.

EXPLANATION

These sections correct a reference to an office name that was changed by Public Law 1991, chapter 780 to the Bureau of Information Services.

Sec. 5. 5 MRSA §19205, as amended by PL 1995, c. 404, §§18 and 19, is corrected by amending the headnote to read:

§19205. Coordination of services to persons with HIV or AIDS, ~~AIDS Related complex and viral positivity~~

EXPLANATION

This section corrects a section headnote to accurately reflect the content of the section as amended by Public Law 1995, chapter 404, sections 18 and 19.

Sec. 6. 10 MRSA §1126, sub-§2, as enacted by PL 1979, c. 483, is corrected to read:

2. Fees. Any form of agreement submitted to the ~~bureau~~ office under this section ~~shall~~ must be accompanied by a fee of \$25. The period within which the ~~bureau~~ office must act under this section ~~shall commence~~ commences upon receipt of the fee. The fees received under this section are to be used by the ~~superintendent~~ director for the purposes of this chapter. The balance of any fees so received ~~shall~~ does not lapse.

Sec. 7. Effective date. Section 6, which corrects the Maine Revised Statutes, Title 10, section 1126, subsection 2, takes effect January 1, 1996.

EXPLANATION

This section corrects references to the Bureau of Consumer Credit Protection and the title of the superintendent of that office. The changes, which take effect January 1, 1996, are changes required by Public Law 1995, chapter 309.

Sec. 8. 21-A MRSA §122, sub-§3, as repealed and replaced by PL 1985, c. 614, §6, is corrected to read:

3. Notice of new registration. When an applicant states in his ~~the~~ application that ~~he~~ the applicant last voted in another municipality in this State or any other state, the registrar shall immediately send a notice of the applicant's new registration to the registrar of that municipality. The notice ~~shall~~ must contain the following:

- A. The voter's name;
- B. The name under which registered, if changed;
- C. Date of birth; and
- D. Former street and mailing address.

The registrar who receives the notice shall remove the name from the voting list if ~~he~~ the registrar is satisfied as to the identity of the person and ~~he~~ the registrar need not send the notice required by section ~~462~~ 162-A.

EXPLANATION

This section corrects a cross-reference, changes gender-specific language and corrects grammatical errors.

Sec. 9. 21-A MRSA §629, sub-§4, as amended by PL 1993, c. 695, §29, is corrected to read:

4. Booth for the visually impaired. The clerk shall equip at least one of the voting booths at the voting place with an enlarged instruction poster, a magnifying device and an adjustable lamp for improved lighting. The clerk may also equip the voting booth with an enlarged specimen ballot at the clerk's own discretion.

EXPLANATION

This section corrects an error in punctuation.

Sec. 10. 21-A MRSA §1020-A, sub-§§2 and 7, as enacted by PL 1995, c. 483, §15, are corrected to read:

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~~ 7, 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.

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~~ 4 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.

EXPLANATION

This section corrects cross-reference errors.

Sec. 11. 22 MRSA §3741-E, sub-§1, as amended by PL 1991, c. 528, Pt. F, §4 and affected by Pt. RRR; and amended by c. 591, Pt. F, §4, is corrected to read:

1. First priority given to targeted recipients who volunteer. Recipients of federal Aid to Families with Dependent Children who are within one of the target populations of the federal Job Opportunity and Basic Skills training program, or JOBS, or are eligible on the basis of unemployed parent status and who volunteer to participate in the Additional Support for People in Retraining and ~~Education program~~ Employment Program, or ASPIRE-JOBS, must be given first consideration for services. The federal JOBS target populations are individuals who:

- A. Have received federal Aid to Families with Dependent Children for any 36 of the preceding 60 months;
- B. Are custodial parents under 24 years of age who:

(1) Have not completed a high school education and are not enrolled in high school at the time of application; or

(2) Had little or no work experience in the preceding year; or

C. Are members of families in which the youngest child because of age is within 2 years of being ineligible for federal Aid to Families with Dependent Children.

EXPLANATION

This section corrects a reference to a program name that was changed by Public Law 1995, chapter 418 to the Additional Support for People in Retraining and Employment Program.

Sec. 12. 23 MRSA §708, sub-§1, as enacted by PL 1991, c. 481, §2, is corrected to read:

1. Definitions. All definitions in Title 5, section ~~4768~~ 1769, subsection 1 apply in this section. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commissioner" means the Commissioner of Transportation.

B. "Roadway lighting" means lighting that is specifically intended to illuminate roadways for automobiles but does not mean lighting intended to illuminate roadways only for pedestrian purposes.

EXPLANATION

This section corrects a cross-reference.

Sec. 13. 24 MRSA §2320-C, as enacted by PL 1995, c. 369, §1, is corrected by amending the headnote to read:

~~§2320-C. §2320-D.~~ **Medical food coverage for inborn error of metabolism**

Sec. 14. PL 1995, c. 369, §1, first line is corrected to read:

Sec. 1. 24 MRSA §~~2320-C~~ §2320-D is enacted to read:

EXPLANATION

These sections correct a numbering problem created by Public Law 1995, chapters 295 and 369,

which enacted 2 substantively different provisions with the same section number.

Sec. 15. 24-A MRSA §2745-C, as enacted by PL 1995, c. 369, §2, is corrected by amending the headnote to read:

~~§2745-C. §2745-D.~~ **Medical food coverage for inborn error of metabolism**

Sec. 16. PL 1995, c. 369, §2, first line is corrected to read:

Sec. 2. 24-A MRSA §~~2745-C~~ §2745-D is enacted to read:

EXPLANATION

These sections correct a numbering problem created by Public Law 1995, chapters 295 and 369, which enacted 2 substantively different provisions with the same section number.

Sec. 17. 24-A MRSA §2837-C, as enacted by PL 1995, c. 369, §3, is corrected by amending the headnote to read:

~~§2837-C. §2837-D.~~ **Medical food coverage for inborn error of metabolism**

Sec. 18. PL 1995, c. 369, §3, first line is corrected to read:

Sec. 3. 24-A MRSA §~~2837-C~~ §2837-D is enacted to read:

EXPLANATION

These sections correct a numbering problem created by Public Law 1995, chapters 295 and 369, which enacted 2 substantively different provisions with the same section number.

Sec. 19. 24-A MRSA §4237, as enacted by PL 1995, c. 369, §4, is corrected by amending the headnote to read:

~~§4237. §4238.~~ **Medical food coverage for inborn error of metabolism**

Sec. 20. PL 1995, c. 369, §4, first line is corrected to read:

Sec. 4. 24-A MRSA §4237 ~~§4238~~ is enacted to read:

Sec. 21. 24-A MRSA §4237, as enacted by PL 1995, c. 418, Pt. C, §4, is corrected by amending the headnote to read:

~~§4237. §4239. Medical child support~~

Sec. 22. PL 1995, c. 418, Pt. C, §4, first line is corrected to read:

Sec. C-4. 24-A MRSA ~~§4237~~ §4239 is enacted to read:

EXPLANATION

These sections correct a numbering problem created by Public Law 1995, chapters 295, 369 and 418, which enacted 3 substantively different provisions with the same section number.

Sec. 23. 26 MRSA §1192, sub-§12, as enacted by PL 1995, c. 222, §1, is corrected 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.~~

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.

EXPLANATION

This section corrects a format error by blocking a paragraph that was originally enacted as an indented paragraph to the Maine Revised Statutes, Title 26, section 1192. The paragraph should be blocked because it refers to the subsection only and not the entire section.

Sec. 24. 26 MRSA §2013, sub-§9-A, as amended by PL 1993, c. 385, §23, is corrected to read:

9-A. Coordination with Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program. Coordination with the Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program established in Title 22, chapter 1054-A; and

Sec. 25. 26 MRSA §2171, sub-§3, as amended by PL 1993, c. 385, §25, is corrected to read:

3. Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program. The Additional Support for People in Retraining and ~~Education Employment~~ - Job Opportunities and Basic Skills Training Program under Title 22, chapter 1054-A;

EXPLANATION

These sections correct references to a program name that was changed by Public Law 1995, chapter 418 to the Additional Support for People in Retraining and Employment - Job Opportunities and Basic Skills Training Program.

Sec. 26. 29-A MRSA §2395, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is corrected to read:

1. Right of the Department of Transportation. The Department of Transportation may restrict the weight or passage of any vehicle over any way when, ~~it~~ in its judgment, such passage would be unsafe or likely to cause excessive damage to the way or bridge. Nothing in this Title may be construed to restrict or abridge this right.

EXPLANATION

This section corrects a clerical error by replacing the word "it" with the word "in."

Sec. 27. 32 MRSA §11051, as amended by PL 1989, c. 502, Pt. A, §116, is corrected to read:

§11051. Investigation, suspension and revocation of licenses

~~The Bureau of Consumer Credit Protection~~ Office of Consumer Credit Regulation may investigate the records and practices of a licensee in accordance

with Title 9-A, section 6-106, and may charge for expenses incurred pursuant to Title 9-A, section 6-106, subsection 6. The ~~superintendent~~ director may file a complaint with the Administrative Court to suspend or revoke a license issued pursuant to this chapter, if, after investigation or hearing, or both, the ~~superintendent~~ director has reason to believe that the licensee has violated any provisions of this chapter or any administrative rules issued pursuant to this chapter, or has failed to maintain its financial condition sufficient to qualify for a license on an original application.

Sec. 28. Effective date. Section 27, which corrects the Maine Revised Statutes, Title 32, section 11051, takes effect January 1, 1996.

EXPLANATION

This section corrects references to a bureau and a superintendent. Public Law 1995, chapter 309, which takes effect January 1, 1996, changes the name of the Bureau of Consumer Credit Protection to the Office of Consumer Credit Regulation and the title of the superintendent of that office to the director.

Sec. 29. 35-A MRSA §116, sub-§1, ¶C, as amended by PL 1991, c. 343, §1, is corrected to read:

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not ~~be~~ subject to any assessment.

EXPLANATION

This section corrects a grammatical error.

Sec. 30. 35-A MRSA §7505, sub-§1, as amended by PL 1993, c. 708, Pt. J, §11, is corrected to read:

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

EXPLANATION

This section corrects references to the Office of Information Services whose name was changed to the Bureau of Information Services by Public Law 1991, chapter 780.

Sec. 31. 38 MRSA §480-Q, sub-§17, as enacted by PL 1995, c. 493, §4, is corrected to read:

~~17.~~ **19. 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. 32. PL 1995, c. 493, §4, first line is corrected to read:

Sec. 4. 38 MRSA §480-Q, sub-§17 sub-§19 is enacted to read:

EXPLANATION

These sections correct a numbering conflict created by Public Law 1995, chapters 460 and 493, which enacted substantially different provisions with the same subsection number.

Sec. 33. 38 MRSA §1310-AA, as enacted by PL 1995, c. 314, §1, is corrected by amending the headnote to read:

~~§1310-AA~~ **§1310-BB. Use of unauthorized tire management site or facility**

Sec. 34. PL 1995, c. 314, §1, first line is corrected to read:

Sec. 1. 38 MRSA ~~§1310-AA~~ §1310-BB is enacted to read:

EXPLANATION

These sections correct a numbering conflict created by Public Law 1995, chapters 314 and 465, which enacted substantively different provisions with the same section number.

Sec. 35. PL 1993, c. 582, §1, first line is corrected to read:

Sec. 1. 30-A MRSA c. 3, sub-c. I, art. 12 is enacted to read:

EXPLANATION

This section corrects an amending clause.

Sec. 36. PL 1995, c. 105, §1, first 2 lines are corrected to read:

Sec. 1. 39-A MRSA §314, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 and to 11, is amended to read:

EXPLANATION

This section corrects an amending clause.

Sec. 37. PL 1995, c. 332, Pt. A, §11 is corrected to read:

Sec. A-11. 24-A MRSA §2809-A, sub-§3-A is enacted to read:

3. 3-A. 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.

EXPLANATION

This section corrects the subsection number to reflect the action indicated in the amending clause.

Sec. 38. PL 1995, c. 332, Pt. G, §1, first 2 lines are corrected to read:

Sec. G-1. 24 MRSA §2325-A, sub-§5-C, ¶B, as amended by PL 1993, c. 586, §1, is further amended to read:

Sec. 39. PL 1995, c. 332, Pt. G, §2, first 2 lines are corrected to read:

Sec. G-2. 24-A MRSA §2843, sub-§5-C, ¶B, as amended by PL 1993, c. 586, §1, is further amended to read:

EXPLANATION

These sections correct errors in 2 amending clauses. The section symbols were omitted in the original public law chapters.

Sec. 40. PL 1995, c. 367, §1, first 2 lines are corrected to read:

Sec. 1. 5 MRSA §17852, sub-§4, ¶C-2, as amended enacted by PL 1993, c. 626, §1, is further amended by amending the last paragraph to read:

EXPLANATION

This section corrects an amending clause.

Sec. 41. PL 1995, c. 402, Pt. C, §11, first 2 lines are corrected to read:

Sec. ~~C-11~~. C-3. 5 MRSA §12004-I, sub-§29, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 42. PL 1995, c. 402, Pt. C, §12, first line is corrected to read:

Sec. ~~C-12~~. C-4. Consolidation of audit services

EXPLANATION

These sections correct a section numbering error.

Sec. 43. PL 1995, c. 488, §5, first 2 lines are corrected to read:

Sec. 5. 38 MRSA §1453-A, sub-§7, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

EXPLANATION

This section corrects an amending clause.

Sec. 44. Resolve 1995, c. 16, §2, first ¶ is corrected to read:

Sec. 2. Appointment of members. Resolved: That the council consists of ~~43~~ 14 members. The Governor shall appoint one person from each of the following: the Department of

Conservation, the Department of Economic and Community Development, the Department of Environmental Protection, the Department of Transportation, the University of Maine System, an electric utility, a railroad, organized labor and the environmental community; and 3 members from the paper industry. The President of the Senate shall appoint one Senator and the Speaker of the House of Representatives shall appoint one Representative.

EXPLANATION

This section corrects an obvious clerical error.

SELECTED MEMORIALS AND JOINT RESOLUTIONS

JOINT RESOLUTION HONORING THE SISTERS OF THE BLESSED SACRAMENT CONVENT IN WATERVILLE

H.P. 1274

WHEREAS, the Legislature has learned of the vicious and brutal attack on the sisters of the Blessed Sacrament in Waterville; and

WHEREAS, that attack has taken the lives of Sister Superior Edna Mary Cardozo and Sister Marie Julien Fortin and has left Sister Mary Anna DiGiacomo in serious condition and caused injuries to Sister Patricia Keane; and

WHEREAS, the order of the Blessed Sacrament sisters have for almost a half century provided comfort, solace, support and prayers for the sick, the elderly, the less privileged and anyone else in need; and

WHEREAS, their kindness, grace, mercy and thoughtful consideration will be sorely missed by all citizens, crossing boundaries of all faiths and all communities; now, therefore, be it

RESOLVED: That our membership join others from across the state and nation in extending our heartfelt sympathy and condolences to the families, friends and sisters of the Blessed Sacrament in their time of grief; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the sisters of the Blessed Sacrament convent as an expression of our esteem.

**Read and adopted by the House of
Representatives and the Senate February 1,
1996.**

JOINT RESOLUTION MEMORIALIZING THE MEMBERS OF THE MAINE CONGRESSIONAL DELEGATION TO INSIST THAT THE UNITED STATES SECRETARY OF AGRICULTURE MAINTAIN AND INTENSIFY INSPECTIONS OF CANADIAN POTATO SHIPMENTS ALONG MAINE'S BORDER AND DETERMINE THE EXISTENCE OF UNFAIR TRADE PRACTICES BY THE CANADIAN GOVERNMENT

H.P. 1283

WE, your Memorialists, the Members of the One Hundred Seventeenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Members of the Maine Delegation to the Congress of the United States, as follows:

WHEREAS, in response to complaints by Maine potato growers, the Federal-State Inspection Service recently began inspecting Canadian potatoes being imported into Maine; and

WHEREAS, in the course of these inspections, approximately 18% of the potatoes inspected were found to be "suspect" because they were mislabeled or did not meet grading requirements; and

WHEREAS, while Maine potato crops are at their lowest levels since 1922 due to drought, Canadian crops are at their highest; and

WHEREAS, this disparity in crop size between the 2 countries, when combined with possible subsidization of the potato industry by the Canadian Government, has led to a severe underselling of Maine potatoes, which has been exacerbated by the favorable exchange rate on the U.S. dollar received by Canadian farmers; and

WHEREAS, import restrictions on potatoes and other trade practices by the Canadian Government place an unfair burden on U.S. farmers, since the same restrictions are not placed on the import of Canadian potatoes by the U.S. Government; and

WHEREAS, these conditions, if not dealt with in a timely manner, could have disastrous effects on Maine potato farmers who are at risk of not being able to ship their potatoes, thus defaulting on their debts and losing their farms; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that the Maine Delegation to the United States Congress insist that the U.S. Secretary of Agriculture continue and intensify the inspections of Canadian potatoes being imported into the United States along Maine borders; and be it further

RESOLVED: That We, your Memorialists, respectfully request that the Maine Delegation to the United States Congress insist that the U.S. Secretary of Agriculture and the U.S. Trade Representative intensify their investigations of import restrictions, subsidies and unfair trade practices by the Canadian Government; and be it further

SELECTED MEMORIALS AND JOINT RESOLUTIONS

RESOLVED: That We, your Memorialists, respectfully request that, if the investigation reveals unfair trade practices, the U.S. Trade Representative take appropriate action under the General Agreement on Tariffs and Trade to allow Maine farmers to compete with Canadian farmers on a fair and equal basis; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to each Member of the Maine Congressional Delegation.

**Read and adopted by the House of
Representatives February 8, 1996 and the
Senate February 13, 1996.**

JOINT RESOLUTION MEMORIALIZING THE SECRETARY OF TRANSPORTATION OF THE UNITED STATES TO TAKE APPROPRIATE ACTION TO ENSURE CONTINUED AIR SERVICE TO AROOSTOOK COUNTY

H.P. 1309

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the Secretary of Transportation of the United States, as follows:

WHEREAS, air service has been provided to Aroostook County, Maine for a period of years by Delta Business Express; and

WHEREAS, Delta Business Express has announced the intention to discontinue the daily business express service to Aroostook County and the intention to seek administrative approvals for that discontinuation; and

WHEREAS, the daily airline service provided to Northern Maine Regional Airport by Delta Business Express constitutes one of Aroostook County's important economic and cultural links to the rest of the State; and

WHEREAS, Aroostook County is in the midst of a significant economic realignment occasioned by the closure of Loring Air Force Base and the discontinuation of daily air service will serve as a disincentive to the relocation of potential employers to the county; and

WHEREAS, the termination of this air service means that the nearest scheduled daily air service available to residents of Aroostook County is 200 miles away; and

WHEREAS, Delta Business Express has been a responsible corporate citizen in Maine and in Aroostook County and the residents of the county and the State wish to preserve this valued relationship; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Secretary of Transportation of the United States to disapprove the proposed termination of this service and to take all appropriate regulatory actions to ensure that this service is retained; and be it further

RESOLVED: That We request that the President of Delta Business Express reevaluate this proposal in consideration of the economic dislocation the suspension of service would cause and in consideration of the strong community and government support for continued service; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of Transportation of the United States, to the President of Delta Business Express and to each Member of the Maine Congressional Delegation.

**Read and adopted by the House of
Representatives and the Senate February 15,
1996.**

JOINT RESOLUTION MEMORIALIZING THE DEPARTMENT OF THE INTERIOR TO SETTLE AN 11-YEAR DISPUTE BETWEEN THE NATIONAL PARK SERVICE AND THE SKI AREA LOCATED ON SADDLEBACK MOUNTAIN

S.P. 718

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Department of the Interior as follows:

WHEREAS, there has been an 11-year dispute between the ski area located on Saddleback Mountain and the National Park Service of the Department of the Interior regarding the acquisition of a corridor to protect the portion of the Appalachian Trail that crosses Saddleback Mountain in western Maine; and

WHEREAS, the uncertainty of this dispute has prevented the ski area located on Saddleback Mountain from implementing an expansion plan that has been approved by state regulators; and

WHEREAS, this dispute and the resulting impasse threaten the existence of the more than 100

jobs provided by the ski area and prevent the creation of new jobs at the ski area; and

WHEREAS, these jobs are critical to the economy of western Maine; now, therefore, be it

RESOLVED: That We, your Memorialists, recommend and urge the Department of the Interior to reach a speedy, reasonable and fair settlement with the ski area located on Saddleback Mountain; and be it further

RESOLVED: That We further urge the Department of the Interior to accept the offer of the ski area located on Saddleback Mountain of a gift of land to serve as a corridor to forever protect the Appalachian Trail; and be it further

RESOLVED: That suitable copies of this memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Interior, Bruce Babbitt, and to each member of the Maine Congressional Delegation.

**Read and adopted by the Senate March 7, 1996
and the House of Representatives March 13,
1996.**

**JOINT RESOLUTION
COMMEMORATING YOM HASHOAH,
THE DAYS OF REMEMBRANCE OF
THOSE WHO SUFFERED AS VICTIMS OF
THE HOLOCAUST**

H.P. 1364

WHEREAS, 54 years ago, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, the year 1996 is the 51st anniversary of the conclusion of World War II; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 16, 1996 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom Hashoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 14th to April 21st as the Days of Remembrance of the Victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C. on behalf of the people of the State of Maine.

**Read and adopted by the House of
Representatives and the Senate March 20, 1996.**

**JOINT RESOLUTION MEMORIALIZING
THE SECRETARY OF THE NAVY TO
RETAIN THE SEARCH AND RESCUE
TEAM HELICOPTERS PRESENTLY
STATIONED AT THE BRUNSWICK
NAVAL AIR STATION**

H.P. 1367

WE, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Secretary of the Navy, as follows:

WHEREAS, the United States Navy has proposed to remove the Search and Rescue Team from the Brunswick Naval Air Station in a cost-cutting move; and

WHEREAS, this 2-helicopter Search and Rescue Team is the only unit of its kind for the 7,200 miles of Maine coastline and for the northern New

SELECTED MEMORIALS AND JOINT RESOLUTIONS

England seaboard, and the next nearest unit is based on Cape Cod, Massachusetts; and

WHEREAS, the Search and Rescue Team is considered one of the most effective means in the State for saving lives and has responded in the last 10 years to more than 100 emergency calls for both civilians and United States Navy personnel; and

WHEREAS, recently, volunteers among a variety of private and public groups raised \$16,000 to outfit one of the helicopters with a special night searchlight, creating a unique partnership between the citizens of the State of Maine and the United States Navy; and

WHEREAS, the loss of this team puts the lives of Maine citizens and the personnel of the United States Navy stationed in Maine at risk, as the survival time in the waters of the Gulf of Maine is limited; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Secretary of the Navy to reconsider the plan to cut costs at the risk of human life and to keep the Search and Rescue Team in place; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Navy and to each Member of the Maine Congressional Delegation.

**Read and adopted by the House of
Representatives and the Senate March 22, 1996.**

JOINT RESOLUTION IN HONOR OF EDMUND S. MUSKIE

H.P. 1375

WHEREAS, Edmund S. Muskie was born in Rumford, Oxford County, Maine, on March 28, 1914, and died on March 26, 1996; and

WHEREAS, the State of Maine and the nation were faithfully served for decades by the Honorable Edmund S. Muskie, who held the offices of State Representative, Governor, United States Senator and United States Secretary of State during his extraordinary career in politics and government; and

WHEREAS, the illustrious career of our native son began with a law practice in Waterville and service in the United States Navy during World War II

before his election to the Maine House of Representatives in 1946 where he served until 1951; and

WHEREAS, Edmund S. Muskie is credited with converting Maine into a 2-party state after nearly a century of single-party domination, as he worked effectively as a Democratic Governor of Maine with a Republican Legislature; and

WHEREAS, as a 4-term United States Senator, Edmund S. Muskie earned the respect and appreciation of the citizens of Maine and the nation for his diligence and hard work as chair of the Senate Budget Committee and by crafting such landmark federal legislation as the Clean Air Act and the Water Quality Act, a lasting legacy to the American people; and

WHEREAS, as a trusted and respected man of integrity, Edmund S. Muskie was many times in the center of national politics: as a candidate for Vice-President of the United States in 1968, as a candidate for President of the United States in 1972 and as United States Secretary of State in 1980; and

WHEREAS, Edmund S. Muskie best exemplified the ideal of public service, as he never forgot where he came from and what was important to the people of Maine and the nation, as he endeavored to work for the common good; and

WHEREAS, Edmund S. Muskie's outstanding record of public service is unparalleled and history will record that he placed the highest priorities on family, state and country, and this favorite son of Maine won the respect of the people and leaders of the nation and the world and, together with his wife Jane, won special affection from the citizens of his native State; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Seventeenth Legislature, now assembled in the Second Regular Session, take this opportunity to honor Edmund S. Muskie and to recognize his distinguished service to the people of the State of Maine and to the nation over many years, and respectfully request that when the Legislature adjourns this date, it do so in honor and lasting tribute to the memory of Edmund S. Muskie; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Jane Muskie and her family on behalf of the People of the State of Maine as a tangible token of our high esteem.

**Read and adopted by the House of
Representatives and the Senate March 28, 1996.**

STATE OF THE STATE ADDRESS
OF
GOVERNOR ANGUS S. KING, JR.
January 23, 1996

Mr. President, Mr. Speaker, Mr. Chief Justice, Members of the 117th Maine Legislature, and the people of Maine.

We are living in revolutionary times. I believe that we are in the middle of the greatest change in the way people work and organize their lives since the Industrial Revolution. The revolution is the globalization of the economy.

Where once we did business down the street or across the state, trade and commerce now spans states, regions and national borders. In Brewer, Maine is a company--Brewer Automotive Components--which is a joint venture between German and Japanese companies which manufactures ball-joints for Toyotas made in Georgetown, Kentucky. NYNEX's on-line yellow pages is based in France and when you call Swissair for a plane reservation, the phone rings in Pakistan.

In Tokyo, this black-faced L.L Bean watch is as fashionable as a Rolex and everyone watching us tonight has products in their house from at least a dozen countries.

And this revolution is good news and bad news for Maine.

The good news is that location--our historic economic disadvantage--is no longer such a problem. You remember the maps when we were kids--Maine was way up here in the corner.

Now, instead of being at the end of the line, we're in the middle of the global economy--closer to Europe than any other part of the U.S. and able to sell our goods and services into markets from Ireland to Indonesia.

That's the good news. The bad news is that everyone in the world wants our jobs and they are hard at work--right now--to get them.

Ten days ago I had in my office a representative of a German company who is looking for a site in this country for a manufacturing facility. He started here because they already have a distribution center in southern Maine. But he was going from here to Virginia and then on to North Carolina. And Virginia has a full-time person in Germany, by the way, looking for opportunities like this.

Last Friday I spent the day in western Maine and visited five solid Maine businesses--Pleasant Mountain Moccasins, Bridgton Knitting Mill, Howell Labs, Oxford Aviation, and Oxford Homes. All are doing well and all are exporting from Maine. But the thing that struck me at the end of the day--and sent a shiver down my spine--was that not a single one of these businesses has to be here. Every one could move--closer to suppliers, to a warmer climate, or simply because a new owner likes it better someplace else.

And just as a not so gentle reminder of our vulnerability, two of our flagship companies--L.L. Bean and BIW--announced cutbacks on the same day last week.

In other words, the global economy brings opportunities for sure, but it brings challenges and stiff competition as well. Someone said to me recently that we are entering a period of no-holds-barred Darwinian competition. And you all remember Darwin: survival of the fittest.

And this competition is not by any means limited to our businesses. The State of Maine itself is in direct competition with South Carolina, Texas, Tennessee, Singapore, and Finland just as sure as Ford is in competition with General Motors. When a top official at National Semiconductor called me at home one night last summer to tell me that Maine was going to get the plant, he added, "I've got to tell you that I'm in Texas today and had to tell Governor Bush that we've decided on Maine. He wasn't very happy". I said "isn't that a shame".

But what does all this have to do with the State of the State? Everything. Because what the state of the state is really all about in 1996 is what is the state of our ability to adjust to this revolution, to meet its challenges, and to improve our quality of life for the 21st century.

Because if we don't meet this challenge--and now--our standard of living will decline just as sure as we're sitting here, and our children will be the first generation in American history to be worse off than their parents.

But is this all about business? What about education, the environment, social services, the elderly? I've been accused of having a one track mind when it comes to economic development.

I guess I'll have to plead because everything comes back to having a good job. Quality education, a healthy environment, efficient social services, care for our elderly. Nothing works unless the economy works. Ask the sheriff in any Maine county--there is a direct and unmistakable correlation between alcoholism, domestic abuse, youth violence--and unemployment. Nothing works unless the economy works.

Our budget didn't go down the tubes in the early nineties because taxes were suddenly cut; the bottom fell out because 35,000 people lost their jobs. And the schools, the university, social services, everything suffered. The simple truth is that no society ever taxed its way out of a recession; a vigorous free-enterprise economy is the engine of all social progress.

So where are we with respect to this economic challenge and what else must we do to meet it?

In the past year, we've made some real progress and Maine is starting to win our share of the daily battles that will determine our fate.

Workers comp--long the bane of the Maine economy is not only under control, it's coming down. In the last twelve months, general rates have dropped as much as 30% and there is now fierce competition between insurance companies for Maine business.

By the way, I take no credit for this development--it was the work of a revamped system brought into being by many of the people in this room...and by the efforts of Maine businesses and their workers to give safety the priority it should have had from the start.

In 1995, we began the phase-out of the property tax on machinery and equipment which in a stroke leveled the tax playing field with many other states and has, I believe, been a significant factor in the investment of almost a billion and a half dollars in the Maine economy in the past six months.

We have begun the process of improving Maine's regulatory process to make it more timely and more predictable. A crucial moment in the National Semiconductor decision came when we were asked how long the permits for the new plant would take. When Commissioner Ned Sullivan from the DEP said 30 to 45 days, the largest single industrial investment in the history Maine was a big step closer. Why? Because when that plant is on-line, it will generate revenues at the rate of \$15 million...a week. And it doesn't take an economist to figure out the value of a 45-day permitting period rather than nine months or a year.

By the way, when all was said and done, the permits were delivered in 21 days without compromising environmental standards, and I think

Ned Sullivan and his team at the DEP deserves our thanks.

What else have we done this year to get ready for the challenge bearing down on us?

We've made a good start on winding down the gimmicks which have plagued our budget. Furlough days, shut down days, and the payroll push are all gone; we're now putting aside proper reserves against taxes we may never collect; we've started a modest capital maintenance program; and we're all determined to restore the highway fund.

Nobody's even talking about increasing taxes and we're better than halfway through the difficult process of reorganizing and downsizing every agency of state government. And we will save Maine taxpayers the \$45 million through productivity initiatives that was promised...I guarantee it.

We developed a plan to bring the state into compliance with the Clean Air Act without an intrusive auto emissions program. And - by pushing our neighbors to the west --- we have moved Maine into a national leadership position on clean air issues.

We've developed a long-term economic strategy, and the Legislature's Economic Growth Council, chaired by Sen. Chellie Pingree and Kevin Gildart of BIW, has put together a list of benchmarks to guide our policy and measure our progress.

But perhaps most important, we've done all this--and a lot more--with a civil tone and with respect for each other and the people we represent. In hard times, we've made it work, and I'm proud of that.

So where do we go from here? What's the next stage of getting ready for the challenge of the global economy?

In my view, the most important single determining factor as to whether we're going to make it is...education. The days when a strong back was all you needed to get a good job are long gone and more and more over the next dozen years decisions about where companies locate and grow will depend upon the quality of local education.

Lester Thurow, the MIT economist, once did an analysis of why the United States got so rich over the last 100 years and came up with four advantages that we had that were scarce in the rest of the world: capital, technology, natural resources, and an educated work force. And now the world's playing field has been leveled for the first three.

Capital can move in the blink of a banker's eye: push a button and a million dollars can be in Mexico in a matter of minutes.

A new technology developed today in New York can be faxed to Hong Kong and be in production before the end of the week.

And natural resources can move as well. Japan has the world's most productive steel plant and no iron ore whatsoever.

So that leaves education. Education is going to make the difference for us...one way or the other.

By the way, I don't view education strictly in terms of business--that it's nothing more than a glorified job training program. It's much more than that, and is in fact at the heart of our people's ability to enjoy the life a strong economy makes available.

Now right about here would normally come the pitch for lots more money. But not tonight, because I don't think money is the issue. Sure every school district in Maine could use more money from the state and there's no doubt that increased funding would help, but we all know that it's just not there, and it's not the only answer.

I believe that if we want to make a real leap in the quality of Maine education, we have to look beyond money to how we think about the public education process itself. For too long, we have tried to define quality by what we're putting into the system--particularly money--instead of by what we are getting out. This just doesn't make sense and will never get us where we want to go.

And the 116th Maine Legislature agreed. For more than two years ago, the Legislature created the Task Force on Learning Results which has involved thousands of Maine people--parents, teachers, students, and citizens--in an historic effort to define what it is we think Maine kids should know and figure out a way to measure whether they know it.

In other words, standards and accountability. And two weeks ago this Task Force reported one of the most important documents in the history of Maine education: a specific, testable set of academic standards that can and should apply across the state and will, for the first time give us a measuring stick for determining how our kids--and their schools--are doing.

This report is at the heart of the legislation we will be submitting this week to move Maine education into the 21st century.

But it's the work of the classroom teacher that will be critical to the success of this initiative. For this reason, I am proposing to reallocate \$2 million to train teachers on implementing the new learning standards.

We must look for savings in other parts of the educational system. We will propose incentives for consolidating business functions among school districts. We just can't afford the luxury of school administrative units reinventing the administrative wheel with separate transportation offices, payrolls, accounting and lunch programs. Commissioner Wayne Mowatt has set out a vision for education in the State of Maine that includes high performance by all students, and active involvement of parents and community - all of which would be achieved in a cost efficient manner through the reallocation of current resources.

Linking these standards to the new technology made possible by the passage of last Fall's bond issue immediately jumps Maine to the forefront of American education and, more than any other single thing we can do, will insure our future and that of our children. The telecommunications bond issue passed by the voters will assure that each high school has interactive video channels and each Maine school will have immediate access to the Internet - literally throwing open our schoolhouse doors to the world.

But it's not the only thing we can do. There are also lots of little things, which when added together, can make a real difference in our ability to be a catalyst for the growth of the Maine economy.

And I think it's time we focused on a special sector of that economy--small, existing Maine businesses. Too often when politicians talk of economic development, the emphasis is on recruiting large new businesses from out-of-state, when the real growth potential is right under our nose.

90% of our businesses have fewer than 20 employees and that's where big businesses usually start.

National Semiconductor was a home run, but home runs don't happen every inning.

It's going to take a lot of singles and doubles to build the Maine economy, to lift incomes and lives from Kittery to Fort Kent.

I like stories like Bodacious Bread in Waldoboro which has gone from 8 workers to 16 in a year. Or Andronox in Lisbon Falls, which makes these beautiful boxes; they began in May of 1994 with the husband and wife owners and one employee; today they are up to a dozen, and are headed for 20 by June.

We'll keep pressing for the homeruns, but small business will keep the men--and women--on base.

So I want to begin a new campaign here tonight, a campaign aimed at the thousands of entrepreneurs in Maine and their associates -- a campaign called "Plus

One" -- because that's all it will take. If every small business in Maine hired one additional person tomorrow, our unemployment rate will go to....zero.

So how do we make "Plus One" happen? Maine's small businesses need better access to capital, incentives to create new jobs, help in exporting beyond our borders and information on suppliers and markets.

So do we create a new bureaucracy or another government program to accomplish this? No.

We can't afford it. And in the modern era, it just isn't necessary.

But here are some steps we can take, working with the private sector, to make it happen.

Here's the "Plus One" campaign, in a nutshell:

1. Technology. Computers are now as essential to running a small business as the telephone and we have opened a dialog with Maine's banks on providing special financing terms for the purchase of computers and computer-related equipment. I know that \$3,000 is a lot of money when you're just starting up--I was there seven years ago tonight--but there is no better first investment you can make.

The next step is the development of an "America on Line" for Maine--a business network that will make information instantly available on finance, export opportunities, in-state suppliers, state regulations, and business assistance. One such network is already on-line and at least one more is coming shortly.

(By the way, as I outline these proposals tonight, the details--on education, small business, and long-term care--are available in printed form here in the State House, and, as of late this afternoon, are available to everyone in Maine on the Maine Home Page on the Internet.)

And here's where the state can help--we're putting our regulations on-line and forms as well.

And speaking of forms, here are two that every business in Maine knows well. One is the quarterly filing required for withholding tax--to the department of taxation. The other is for the quarterly filing of unemployment tax--to the department of Labor. Eight forms a year for 36,000 Maine businesses--288,000 pieces of paper that you have to fill out and we have to process.

Well, we're combining them into one form to be filed in one place. This one's going to be history...and that's 144,000 fewer headaches for Maine businesses.

And this is just the beginning. This week 98,000 Maine families will get special tax forms that will

allow them to file their tax returns in ten minutes over the phone and get their refund quicker to boot. During 1996, the people at Taxation will be expanding this TeleFile system, aggressively pursuing Electronic Funds Transfer for refunds, and offering tax filing from your personal computer. By 1997, we can expect to see paperless returns for sales tax, income tax, and employer withholding. These initiatives will dramatically improve efficiency, ease business burden, and lower the cost of tax administration. But why stop there? Why can't we renew our hunting, fishing, and driving licenses over the phone or by computer? I love this stuff, and I intend to make it happen.

2. After technology, international trade. The simple fact is that 5% of the world's population lives in North America--which means that 95% of the world's market is someplace else. And if our businesses are to grow and prosper, they've got to get there.

It's already happening. UNUM, L.L. Bean, Idexx, Key and Fleet Banks, BIW, Gates Formed Fiber, Great Northern Paper, Irving Tanning are deeply involved in international trade. But what about my friends at Andronox, James Taylor Furniture, the Maine Bucket Company, Columbia Falls Pottery, or JimBob Enterprises in Rockland?

We've got to find a way to help these entrepreneurs get into the world market. Right now, Maine's international trade is about two-thirds the national average. If we could just get to the national average--and I think we can go much further--it would add thirty-five thousand jobs in this state, coincidentally, exactly the number of people who are unemployed tonight.

To put it into perspective, our neighbors in Quebec export \$5,000 worth of products and services per person, per year. In Maine, the comparable figure is \$1,250...a ratio of four to one.

The first step is the implementation of the recent report of the International Advisory Committee--an unprecedented partnership between the public and the private sector to put all our international trade assets--the Maine World Trade Association, Maine Training and Education Partnership, and the Trade division of DECD--under one roof to give us a real capability to provide information and assistance to any business in Maine that wants to enter the world market.

And part of this process is to link Maine businesses into cooperative marketing groups--the Maine TradeNet--using a model which took Denmark from the bottom of the exporting heap to one of the highest trade surpluses in the world in less than a decade.

3. I've talked about technology and trade. Now regulation. First and foremost, there is no need nor we will we ever compromise our environment on behalf of the economy. But our regulatory process can be prompt, predictable, and responsive! My goal here is simple: the highest feasible environmental standards--and the highest quality environment--in the country, along with the smoothest, most efficient process. We can do it and we are well on the way to that goal.

The DEP is now working on a five-point plan for environmental excellence for small business, which includes:

- a. A compliance assistance program growing out of legislation passed last year under the sponsorship of Representative Tom Poulin, whereby a company that voluntarily comes forward and requests assistance with an environmental problem can be excused from enforcement as long as the problem is corrected in 90 days.
- b. An expanded Small Business Technical assistance program;
- c. An expansion of the successful Pollution Prevention program aimed at reducing the creation of pollution in the first place, rather than dealing with it only when it leaves the pipe.

When we create an atmosphere of trust and cooperation--rather than confrontation, when we focus on finding solutions instead of problems--good things happen--for the environment as well as business.

4. Next, capital. There is no greater problem for a start-up business than finding the first \$25,000. Great ideas and great people can't do it without the money to pay the first month's rent, buy the computer, the used table saw, and a supply of wood.

So here's what we propose: a new revolving loan fund of \$5 million to be administered by FAME for the sole purpose of providing risk capital--on a matching basis--to small businesses, coupled with a \$6 million revolving loan fund earmarked for infrastructure improvements in the fields of agriculture and aquaculture. Together, these funds will fill a big gap in the ability of many small Maine businesses to get off the ground.

And by the way, any new bonding we propose will follow the 90% rule--no new borrowing in excess of 90% of bonds we are retiring.

5. Next, an idea from Representative Dick Simoneau--a tax credit for the creation of jobs in small business. We already have such a credit now, but you only get it if you create 100 jobs at a pop. Not much help to the little guys. This credit would only be

available to businesses with less than 50 employees and would be scaled to provide an incentive for jobs which pay better wages and benefits. Remember "Plus One"?--we want to make it easy to hire that next person, because when it happens, we all benefit.

And finally, to implement all of the above, on May 30, the Blaine House Conference on small business will convene here in Augusta to get the ideas out and develop a detailed small business agenda.

But what's the goal of all of this? It's simple: Never again should a young person have to leave Maine to find a decent job!

But even as we strive to create new jobs, improve the quality of our workforce, reshape state government and improve productivity, we cannot forget those who need our help.

Even in the toughest economic times in our history, Maine people have always looked out for their neighbors.

Today, many of our neighbors need ongoing care and help.

Maine has a growing population of elderly people, and many of them need some form of long-term care or assistance.

This ranges from round-the-clock monitoring to occasional help in preparing their meals or getting dressed in the morning.

For too many of our elderly their only option is to leave their homes and their communities where they have lived for years and move -- sometime miles away -- to a nursing home.

The emotional strain this causes is exceeded only by the financial one to themselves, to their families and ultimately to the state.

Like the woman in Scarborough, who wrote to her children last December to tell them that even though their parents had enjoyed good health, had worked well into their sixties, and had managed to save a considerable nest egg, their children should not expect anything for an inheritance. Because their father had ended his fourth year in a nursing home and the family's entire life savings were gone.

Fortunately, the Maine Medicaid program is there for families like this one who can no longer afford to pay for nursing home care.

But the real tragedy is that this family and so many others depleted their life savings when it could have been avoided, if there had been adequate, safe, and less costly alternatives to a nursing home.

Human Services Commissioner, Kevin Concannon, has an innovative plan to develop adult family care homes -- small residential settings of five residents or fewer for patients who in the past might have been admitted to nursing facilities but who can be safely cared for in these smaller settings, settings that typically cost one-third to one-half less than a nursing home.

Specifically, we will offer legislation that will facilitate the development of boarding care beds in various parts of Maine and additional community-based home care services. We will also offer direct support for patients in nursing homes who no longer meet nursing home criteria and who have not received assistance since 1994. We also propose to provide financial incentives and expedited approval to nursing homes that will quickly convert nursing home beds to residential care.

Further, we will propose increasing support for day and respite care programs for patients with Alzheimer's and other dementias; and increase recruitment, training and support for community volunteers to help monitor the adequacy and the safety of care for our elderly and frail senior citizens--who are cared for in foster homes, boarding homes, nursing homes and soon-to-be adult family care homes.

Finally, I want to address an issue that is critical to another vulnerable group of Maine people. Mental Health Commissioner Melodie Peet is moving forward to shape our mental health system for the 21st Century.

Our challenge is to build an effective, supportive system of community based care while preserving the essential elements of our acute care facilities. Today, 60 percent of our mental health budget supports our mental health institutions where only five percent of our patients are served. We must design a system of care that equitably provides for all clients of the Department of Mental Health.

In order for the state to meet its legal obligations under the three consent decrees that govern our institutions, it is essential for the Commissioner to proceed as quickly as possible while involving all appropriate parties. Therefore, she will convene a representative group of consumers, providers and other stakeholders in the mental health system to hammer out a consensus on this difficult and highly charged issue by early summer. Although difficult, we cannot let this decision linger. We're going to face it, decide and move on.

But what about the cost of all this--new initiatives in education, small business, and long-term care? The first answer is that the proposed additional costs are modest--that was one of my requirements for an idea getting this far. But more important, in every

case, any new expenditures required are to come entirely out of savings and redeployment of existing resources. There's not a dime's worth of new taxes here, there's just more bang for the existing buck.

But I can't complete a report on this year's state of the state without acknowledging the passing of Senator Margaret Chase Smith and the retirement of Senator Bill Cohen. Margaret Smith was the embodiment of quick wit, integrity and grit. The Maine spirit made manifest.

Integrity is at the heart of Bill Cohen's character, as well, along with extraordinary intelligence and grace. He's the only politician I've ever heard quote Archibald MacLeish in a TV interview or Aesculus on the floor of the United States' Senate.

To those of us plying the political trade, they showed us to how to do it right. To both--and I know Margaret is somewhere paying attention--I offer the profound thanks of the people of Maine.

And now I want to close my remarks by addressing some comments to the people outside of this room--those watching or listening on this cold, snowy Maine night. In Calais and Caribou, Scarborough and Belfast, Portland, Rumford, Lewiston.

This is a tough business. Criticism and controversy always seem to make better copy than conciliation and progress. But as we look to Washington and the failure of our national government to perform its most basic duties, it should make us all appreciate what we have here.

We're no angels, but what you have in this room are a collection of Maine people doing their best as God gives them the light see it. And we're making it work. Not simply or in a straight line--the people who set up this crazy, inefficient, cumbersome and altogether wonderful system didn't intend it that way--but slowly and with plenty of time for tweaking to get it right.

We're sometimes opponents, but never enemies; we differ on the means, but rarely the ends; and we're grateful to you for giving us this extraordinary opportunity.

Good night and God bless the State of Maine.

THE STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE DANIEL E. WATHEN
February 13, 1996

Mr. President, Mr. Speaker, members of the Legislature, and friends:

I am honored to represent the third branch of government and to report once again to the 117th Legislature and the people of Maine. This is my fourth State of the Judiciary address and I could sum up the situation of the court system in just four words - "still stressed but improving." If I stopped right here, I am sure I would be met with a thunderous round of applause and you would happily go back to your legislative duties.

I do have a few more thoughts however, and I want you to know that I have been influenced by two questions. A couple of weeks ago I came through the tunnel from the state office building and met a group of legislators. One of them greeted me and said: "When are you coming over to give us the dickens again?" I can't remember who it was that spoke to me, but I assured him that, if invited, I would have something good to say.

The second question was asked a year ago at a press conference right after my last address. One of the reporters said "You made a big pitch for computers and the need to modernize the courts. You probably are not going to get it, so what are you going to say next year when you are back asking for the same thing?" Well, I have worried all year about that question.

Compared to other states, the courts in Maine are still underfunded, but performing at a very high level. I have to thank the women and men who work in the judicial system. They work competently and diligently in the face of increasing demands and decreasing resources. They keep us afloat.

Today I want to report on three major challenges, and tell you about some of our plans for improvement.

Two related social problems straining our limited resources are domestic violence and the abuse and neglect of children. I won't repeat all of the statistics, I know you have read them, but they are really staggering.

National figures reflect over half of all couples experience at least one violent incident. Although violence is inflicted on both sexes, it falls most heavily on women, and battering is the single major cause of injury to women. One third of all women using

hospital emergency rooms are there because of battering.

Well, how are things in Maine? In one word -- worse. Nationally 20% of all homicides arise out of domestic situations, here in Maine the average has approached 60% in recent years. Our District Court handles 5500 petitions for protection from abuse a year and the Annual Report of the courts distributed to you last week reveals that domestic cases of all types are the fastest growing part of the District Court civil docket.

I don't think we should use the term domestic violence, it is too polite. We must acknowledge that we are a violent society and that in Maine people beat and kill those they claim to love and they do it at an alarming rate. The police, shelter and advocacy groups, and the courts work together, and try to cope, but as a state we need to address this problem comprehensively.

The news from the courts on child abuse and neglect is equally grim. An official from DHS wrote me recently and asked for more judge time in one of our rural courts. In that particular court 2 1/2 of the 12 available days are scheduled for child protection cases. That sounds like a lot but they had 12 cases scheduled for the next half day and a new petition could not be scheduled for a minimum of 2 1/2 to 3 months. A final order in a contested matter might take a year. In the meantime the children remain in foster care and legal limbo.

When you set out to take children away from their parents, you have to expect that the cases will be complex, highly charged, and hotly contested. If we doubled the amount of judge time in that court, we wouldn't put a dent in the DHS backlog.

A second cause of strain on the court system is drug and alcohol abuse. A year ago I attended a conference that included teams of students from twenty-five different high schools, some of you folks were there, and the teams reported on the problems that interfered most with their educational environment. Leading every list was drug and alcohol abuse, petty theft, and violence.

That situation cries out for increased parental involvement, but it also has serious implications for our criminal justice system. Today's violent juvenile with a substance abuse problem is too often

tomorrow's violent felon, sex offender, mental patient, or batterer. Serious criminal cases in the Superior Court increase every year and the trend is bound to continue until we keep children in school and remove drugs and alcohol from school.

With scarce court resources increasingly devoted to the pressing problems of domestic violence, child protection, and crime, there isn't much time left for the 35 to 40 thousand civil disputes filed each year by Maine businesses and injured Maine people. The little time that is left is diminished by the fact that more and more people are forced to represent themselves in court.

Since the 12th Century in England, our legal system has operated on the premise that most people will be represented by trained lawyers. Human affairs are complicated, court procedures are complex, litigation is difficult, and, although I probably shouldn't say it before this audience the laws enacted by Congress and the Legislature remain a mystery to many. I know you won't believe this, but some people even claim to have difficulty reading our court opinions. Fortunately, most of these folks are lawyers.

Until today if you were poor and in need of legal assistance here in Maine, there were four sources of help: the Volunteers Lawyers Project, Cumberland Legal Aid Clinic, Pine Tree Legal Services, and Legal Services for the Elderly. Unfortunately, these programs have been set back in just the last few months, and the very existence of some of them is threatened by changes in the federal budget.

Pine Tree Legal's staff has dropped from 25 lawyers to fewer than 7--a ratio now of one attorney for every 34,000 clients in need. Legal Services for the Elderly has one attorney for every 16,000 clients. These two important agencies deserve your support and need some "safety valve" assistance from you. I use the term "safety valve" because timely legal help for the poor often avoids a home foreclosure, an unlawful eviction from an apartment or a nursing home, a new welfare case, or the escalation of a domestic case into costly criminal proceedings.

Maine lawyers do more than their fair share, and they have responded to our cry for help in this time of crisis. But they cannot do it alone.

I raise the plight of those who cannot afford legal representation, first, because the protection of the law is too often an illusion for those who are without counsel. But I also speak out for the courts. When people are without a lawyer they are forced to come to the courthouse and ask for help at the window. For many people this is one of their few contacts with their government and it is not a positive experience. Clerks do the best they can but they have neither the time nor the training to give legal advice. It is usually

impossible for the judge to help the unrepresented litigant and at the same time maintain the appearance and the reality of impartiality and fairness. We must find another way to help those without legal representation.

These are just a few of the pressures bearing down on the court system. They could all be remedied by more staff, more judges, and more resources. Let us hope that in the near future this Legislature can consider major improvements in funding Maine's justice system, but in the meantime, how are we going to continue to provide justice today?

Technology is a big part of the answer and you may recall my impassioned plea last year. One minor breakthrough will occur this week when we distribute 11 new laptop computers to trial judges, bringing our total number to 17. These popular little boxes save a lot of paper and do a lot of things. One example, they provide instant electronic access to every law book in the United States. Seventeen of our forty-three traveling trial judges will now be able to perform sophisticated legal research anywhere in Maine automatically, instantly, and with less expense.

This is just a hint of the promise that technology offers. But today I can also report progress on the more important task of computerizing all clerical functions and scheduling in Maine's courts. Just two weeks ago, we opened bids on the software package for a modern court management system, and we have much of the money to pay for it in the bank.

Our total technology plan is priced at \$2.1 million. This past summer with the help of Gov. King, law enforcement, the corrections department, DHS, and family violence projects, we obtained federal grants and cleaned out our cupboards -- raising a total of \$1.4 million. Just another \$300,000 to \$400,000 will give us a fully functional system and we have a rare opportunity to hit that goal this year by allocating that sum from the technology funds you made available through the Productivity Task Force.

The courthouses are wired, we are connected by a network, and the computer hardware is permanently installed at the Maine Judicial Center here in Augusta. I am pleased to announce that we will have pilot courts on line as early as June, and all courts will be fully automated within 18 months.

I mentioned the Judicial Center where I am housed along with the court computers at 65 Stone Street. It is a wonderful facility. It was given to the State of Maine by Elsie P. Viles, and last session you helped clear the final hurdle to our moving in. We still have to finish the parking lot and signs. We will have you over in the spring, but the Center has already become the focal point for court training, conferences, and technology. For the first time in our state's

history, the judicial branch of government has a headquarters, and we thank Mrs. Viles for her singular generosity and you for your help.

With your help, the courts of Maine are about to discard the quill pen, unhook the rotary phone, and plug in the computer. Technology is not a panacea, but when you put it in the hands of our people, everyone in Maine will benefit.

What else can we do to meet expanding caseloads and serve the growing number of people who are forced to represent themselves? If you have ever been involved in litigation, you know everyone needs a friend in court. For years we have benefitted from the services of volunteers and those who work for nominal pay.

Think of the thousands, and I do mean thousands, of jurors, mediators, neutrals, consultants, and lay volunteers who help us out every day. For example, Maine's first lady, Mary Herman, now serves on a committee studying ways to improve the courts' ability to protect children. Volunteer effort has too often gone largely unrecognized, and we have not been very energetic in expanding the opportunities for one neighbor to help another. That is going to change today.

I am pleased to announce what I deem a significant initiative in citizen involvement and courthouse assistance. This initiative bears the name of "The Dirigo Project: Leadership for Justice" and will be guided by a committee of twelve representative civic leaders. As its chair, we have been fortunate in enlisting the services of a man of recognized competence and dedication to Maine, Duane "Buzz" Fitzgerald, President and CEO of Bath Iron Works.

This Committee will review the spectrum of needs of the courts and the needs of citizens for justice to see how each can best serve the other. They will explore new opportunities for citizen involvement in providing court services. This mission is not lightly undertaken. It will involve careful study, thoughtful deliberation, public meetings, the creation of practical programs of training and communication, and it will receive professional staff support.

Let me anticipate your anxiety and assure you that we are not asking for money, this will involve no expense to the state. Because we occupy the unenviable position of being the state judicial system that has been hit the hardest, we received a \$100,000 grant from the Culpeper Foundation through the Governance Institute to see if we could once again demonstrate yankee ingenuity and do what we do best -- lead the nation in tough times. I take no credit for this ambitious project, it is the brainchild of a colleague from the federal bench--our friend, my

mentor, and one of Maine's treasures, Senior Circuit Judge Frank M. Coffin.

Judge Coffin, Buzzy Fitzgerald, and I believe, and you know, that courts and justice are just too important to leave to lawyers, litigants and judges. This Committee will open up opportunities for citizen involvement and foster a number of innovative court house assistance projects. What potential does this effort have? Could one volunteer, or a hundred, make a real difference? Let me offer Exhibit A.

Seated in the gallery today is Dana Mayo. He lives down in York County in Lyman and in his spare time he volunteers as a court-appointed special advocate. He currently represents 19 children involved in 17 child protection proceedings. Since 1991 he has handled 31 cases involving 42 children. This is a man who provides justice -- one child at a time -- and he asks for nothing in return. Dana, you are a remarkable example of the best that Maine has to offer and I applaud you.

More important for us, Dana is not alone. Since the Court Appointed Special Advocates program began in 1985, there have been 650 volunteers. Currently, 233 active volunteers are helping 903 children involved in 711 child protection cases. On average, a volunteer devotes anywhere from 6 to 20 hours per month on each case. They investigate, they advocate, they monitor, they report, unfortunately they sit in court and wait, and most importantly they protect young children. I don't exaggerate when I say that CASA volunteers save the State of Maine \$800,000 per year in guardian's fees alone. That is just the tip of the iceberg. The real value of their contribution cannot be measured. We all are indebted to Mary Gay Kennedy and Herb Pierce who staff CASA and to Dana Mayo and countless others like him. May we all have friends like these in court.

I know that you want me to go on at length and talk about the long list of problems that we face, but I'm not going to be accused of giving you the dickens today. Besides, I want to go out and find that reporter and remind her that I didn't ask for the same thing again. We are making progress in Maine. We have a long way to go. But if we can continue to work together and involve Maine's people, we can modernize and streamline Maine's court system so that it protects us all.

Improving court services has never been easy. In part, the need for better courts caused Maine to separate from Massachusetts in 1820. Court reform is not a 50-yard dash, it is a marathon. But as we face the next century, and the new millennium, it is imperative that we strengthen Maine's courts and renew the promise set forth in the Maine Constitution of prompt and affordable justice for all -- whether

rich, poor, or in between -- justice for all Maine citizens.

Let me close with the words that have rung out for the last 175 years at the end of every court day---
GOD SAVE THIS HONORABLE COURT AND
GOD SAVE THIS GREAT STATE OF MAINE.

Thank you.

CROSS REFERENCE TABLES

TABLE I

Sections of the Maine Revised Statutes Affected by the Laws of the First Special Session and the Second Regular Session of the 117th Legislature and the Revisor's Report 1995, Chapter 1.

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
1	25			AMD	PL 502	E32	4	1234			AMD	PL 643	2
1	124			AMD	PL 625	A1	4	1353	2		AMD	PL 643	3
1	402	2	D	AMD	PL 608	1	4	1701	13		AFF	PL 509	8
1	402	2	E	AMD	PL 608	2	4	1701	13		AMD	PL 509	1
1	402	2	F	NEW	PL 608	3							
1	402	3	H	AMD	PL 608	4							
1	402	3	I	AMD	PL 608	4							
1	402	3	J	NEW	PL 608	5	5	7-B			AMD	PL 502	E30
							5	48	3		AMD	PL 560	F1
							5	88-A	1		AFF	PL 645	B24
							5	88-A	1		AMD	PL 645	B1
							5	88-A	2		AFF	PL 645	B24
							5	88-A	2		AMD	PL 645	B2
2	6	1		AFF	PL 560	K83	5	131			AMD	PL 502	E30
2	6	1		AMD	PL 560	K1	5	150			AMD	PL 665	P1
2	6	2		RPR	PL 502	F1	5	151			AFF	PL 505	22
2	6	2		RPR	PL 560	K2	5	151			AMD	PL 505	2
2	6	4		RPR	PL 502	E1,H1	5	200-B			RPR	PL 625	A2
2	6	4		RPR	PL 665	K1	5	244			AFF	PL 651	5
2	6	5		AMD	PL 502	E32	5	244			AMD	PL 651	1
2	8			NEW	PL 537	1	5	244-B			AFF	PL 651	5
							5	244-B			NEW	PL 651	2
3	734			AMD	PL 643	1	5	931	1	L	AMD	PL 625	A3
3	927	6	C	AFF	PL 505	22	5	931	1	L1	RP	PL 625	A4
3	927	6	C	AMD	PL 505	1	5	933			RPR	PL 502	C1
3	959	1	F	AFF	PL 560	K83	5	935			AMD	PL 502	E2
3	959	1	F	AMD	PL 560	K82	5	935	1	D	AMD	PL 502	E32
3	959	1	C	AMD	PL 671	1-3	5	936			RPR	PL 502	F2
							5	937	1	G	AMD	PL 560	F2
4	17	7		AMD	PL 560	I1	5	937	1	H	AMD	PL 560	F2
4	18			RP	PL 560	I2	5	937	1	I	RP	PL 560	F3
4	18	6		AFF	PL 694	E2	5	938	1		RP	PL 560	E1
4	18	6		AMD	PL 694	D1	5	938	1-A		NEW	PL 560	E2
4	18	6-B		NEW	PL 537	2	5	940			AMD	PL 560	J1
4	18-B			NEW	PL 560	I3	5	943			AMD	PL 560	G3
4	107			AMD	PL 560	I4	5	946			AFF	PL 560	K83
4	152	5	A	AFF	PL 694	E2	5	946			AMD	PL 560	K82
4	152	5	A	AMD	PL 694	D2	5	948	1	I	AFF	PL 560	C4
4	152	5	M	AFF	PL 694	E2	5	948	1	I	AMD	PL 560	C1
4	152	5	M	AMD	PL 694	D3	5	948	1	J	AFF	PL 560	C4
4	153			AMD	PL 560	I5	5	948	1	J	AMD	PL 560	C1
4	153			AFF	PL 665	BB1	5	948	1	K	AFF	PL 560	C4
4	157	1	A	AFF	PL 665	X2	5	948	1	K	NEW	PL 560	C2
4	157	1	A	AMD	PL 665	X1	5	1510-A	1		AFF	PL 560	K83
4	159			AMD	PL 560	I14	5	1510-A	1		AMD	PL 560	K82
4	301			AMD	PL 683	1	5	1549			COR	RR 1	1
4	551			AMD	PL 560	I15	5	1588	1		AMD	PL 562	1
4	807	3	F	AMD	PL 560	G1	5	1642	1		AFF	PL 560	K83
4	807	3	H	AFF	PL 560	K83	5	1642	1		AMD	PL 560	K82
4	807	3	H	AMD	PL 560	K82	5	1664			AMD	PL 502	G1
4	807	3	H	AMD	PL 599	1	5	1664			AMD	PL 665	S1
4	807	3	I	AMD	PL 599	2	5	1665	2		AFF	PL 560	K83
4	807	3	J	NEW	PL 599	3	5	1665	2		AMD	PL 560	K82
4	807	3	I	AFF	PL 694	E2	5	1665	7		AMD	PL 665	S2
4	807	3	I	AMD	PL 694	D4	5	1667			AFF	PL 560	K83
4	1057			AMD	PL 668	1	5	1667			AMD	PL 560	K82

CROSS REFERENCE TABLE I

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
5	1670			RPR	PL 591	1	5	12004-A	12		RP	PL 505	3
5	1710-K			RPR	PL 705	1	5	12004-A	14		AFF	PL 560	H17
5	1710-P			NEW	PL 705	2	5	12004-A	14		AMD	PL 560	H2
5	1710-Q			NEW	PL 705	2	5	12004-A	41		RPR	PL 625	A14
5	1742	7		AMD	PL 665	G1	5	12004-C	7		AFF	PL 676	13
5	1743-C			NEW	PL 524	1	5	12004-C	7		NEW	PL 676	1
5	1811	5		AMD	PL 562	2	5	12004-E	1		AFF	PL 653	B8
5	1811	9	A	AMD	PL 562	3	5	12004-E	1		RP	PL 653	B1
5	1822			AMD	PL 560	F4	5	12004-F	17		NEW	PL 699	1
5	1825-B	2	E	RPR	PL 625	A5	5	12004-G	14-B		AFF	PL 653	A7
5	1826-C	1		AFF	PL 560	K83	5	12004-G	14-B		NEW	PL 653	A1
5	1826-C	1		AMD	PL 560	F5,K82	5	12004-G	20		AFF	PL 667	A39
5	1890-A			COR	RR 1	2	5	12004-G	20		AMD	PL 667	A1
5	1890-B			RPR	PL 703	1	5	12004-G	26-C		NEW	PL 541	1
5	1893	5		COR	RR 1	3	5	12004-G	28		AFF	PL 560	K83
5	1896			COR	RR 1	4	5	12004-G	28		AMD	PL 560	K3
5	1903			AFF	PL 560	K83	5	12004-G	30		RP	PL 532	1
5	1903			AMD	PL 560	K82	5	12004-H	3		RP	PL 693	1
5	3305	1	H	RPR	PL 625	A6	5	12004-H	4		RP	PL 693	1
5	3305	1	K	RPR	PL 625	A7	5	12004-H	7		RP	PL 502	C2
5	3305	1	L	RPR	PL 625	A8	5	12004-I	2-B		RP	PL 532	2
5	3305	1	M	RPR	PL 625	A9	5	12004-I	2-B		RP	PL 693	2
5	3305	1	N	NEW	PL 625	A10	5	12004-I	11-A		RP	PL 560	F6
5	3305	1	O	NEW	PL 625	A10	5	12004-I	15		AFF	PL 676	13
5	3305	1	L	AMD	PL 656	A1	5	12004-I	15		RP	PL 676	2
5	3307-E	1	A	AMD	PL 688	1	5	12004-I	23-B		NEW	PL 667	B1
5	3307-E	3		AMD	PL 688	2	5	12004-I	24-E		NEW	PL 666	1
5	3331	1	H	AMD	PL 688	3	5	12004-I	40		RP	PL 560	F7
5	3331	5		NEW	PL 537	4	5	12004-I	44-A		AFF	PL 653	B8
5	3341			NEW	PL 537	5	5	12004-I	44-A		RP	PL 653	B2
5	3360-E			AFF	PL 665	JJ2	5	12004-I	45		AFF	PL 653	B8
5	3360-E			AMD	PL 665	JJ1	5	12004-I	45		RP	PL 653	B3
5	4573-A	1-A		AFF	PL 511	3	5	12004-I	46		AFF	PL 653	B8
5	4573-A	1-A		NEW	PL 511	1	5	12004-I	46		RP	PL 653	B3
5	4573-A	1-B		AFF	PL 511	3	5	12004-I	47		AFF	PL 653	B8
5	4573-A	1-B		NEW	PL 511	1	5	12004-I	47		RP	PL 653	B3
5	4592			AFF	PL 511	3	5	12004-I	52-A		AFF	PL 694	E2
5	4592			AMD	PL 511	2	5	12004-I	52-A		NEW	PL 694	D5
5	4651	2		RPR	PL 650	1	5	12004-I	52-B		NEW	PL 694	A1
5	4652			AMD	PL 650	2	5	12004-I	54-A		NEW	PL 560	F8
5	4653	1		AMD	PL 650	3	5	12004-I	54-B		NEW	PL 560	F8
5	4654	2		AMD	PL 650	4	5	12004-I	57-B		NEW	PL 595	1
5	4654	4	E	RP	PL 650	5	5	12004-I	57-B		NEW	PL 609	1
5	4654	4	F	AMD	PL 650	6	5	12004-I	68-A		NEW	PL 532	3
5	4654	4	G	NEW	PL 650	7	5	12004-I	74-C		AFF	PL 694	E2
5	5301	2	E	RPR	PL 625	A11	5	12004-I	74-C		AMD	PL 694	D6
5	5303	2		RPR	PL 625	A12	5	12004-I	80-A		NEW	PL 605	1
5	6211			AMD	PL 516	1	5	12004-I	87		AMD	PL 560	B1
5	7036	12		AFF	PL 560	G29	5	12004-I	88		AMD	PL 560	B1
5	7036	12		AMD	PL 560	G4	5	12015	3		RPR	PL 686	1
5	7051	7		AFF	PL 560	K83	5	13001	1	F	AMD	PL 648	8
5	7051	7		AMD	PL 560	K82	5	13001	1	A	AMD	PL 688	4
5	7053	1		AMD	PL 502	F3	5	13001	5		AMD	PL 688	5
5	7501			AMD	PL 625	A13	5	13004	3		AMD	PL 648	8
5	8056	6		AMD	PL 537	6	5	13004	4		AMD	PL 648	8
5	8071	1		AMD	PL 574	1	5	13031	3		AMD	PL 688	6
5	8072	2		AMD	PL 574	2	5	13055	1	B	AMD	PL 560	B2
5	8072	3		AMD	PL 574	2	5	13058	18		NEW	PL 688	7
5	8072	4	F	AMD	PL 537	7	5	13062-A	1		AMD	PL 560	B3
5	8072	4	G	AMD	PL 537	7	5	13062-A	3		AMD	PL 560	B3
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5	12004-A	3		RP	PL 671	4	5	13063-A			RP	PL 648	1
5	12004-A	7		AFF	PL 560	H17	5	13063-A	3		AMD	PL 519	1
5	12004-A	7		AMD	PL 560	H1	5	13063-B			NEW	PL 560	B4
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5	17852	5-B		NEW	PL 624	6	5	20067	1		AFF	PL 560	L16
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10	8001	38	KK	NEW	PL 560	H4	12	552	2	D	AMD	PL 502	E30
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10	8001	38	LL	NEW	PL 560	H4	12	553	1		RP	PL 502	E7
10	8001	38	B	RP	PL 671	6	12	553	3	C	AMD	PL 502	E8
10	8001	38	H1	NEW	PL 671	7	12	553	3	E	AMD	PL 502	E9,32
10	8002			AMD	PL 502	H9	12	553	3	H	AMD	PL 502	E30
10	8003			AMD	PL 502	H10	12	554			AMD	PL 502	E30
10	8003-A			AMD	PL 502	H11	12	555			AMD	PL 502	E10
10	8005			AFF	PL 694	E2	12	555	1		AMD	PL 502	E11
10	8005			AMD	PL 694	D7	12	555	2		AMD	PL 502	E11
10	8006	2		AFF	PL 694	E2	12	556			AMD	PL 502	E12
10	8006	2		AMD	PL 694	D8	12	556	2		AMD	PL 502	E30
10	9003	10		RPR	PL 502	H12	12	557			AMD	PL 502	E13
10	9004	2		RPR	PL 502	H13	12	557-A			RP	PL 666	2
10	9062			AMD	PL 502	H14	12	557-B			NEW	PL 666	3
							12	558-A	2	A	AFF	PL 666	13
							12	558-A	2	A	AMD	PL 666	4
11	9-407	1		AMD	PL 625	A18	12	558-A	2	D	AFF	PL 666	13
							12	558-A	2	D	AMD	PL 666	5
							12	558-A	2	E	NEW	PL 666	6
12	3	1		RP	PL 532	4	12	558-A	2-A		NEW	PL 666	7
12	3	1-A		NEW	PL 532	5	12	558-A	3		AFF	PL 666	13
12	4			AMD	PL 532	17	12	558-A	3		AMD	PL 666	8
12	7			AMD	PL 532	17	12	558-A	6		AMD	PL 666	9
12	51			RP	PL 532	7	12	558-A	7		AMD	PL 502	E14

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12	558-A	11		AMD	PL 666	10	12	6446	2		RPR	PL 568	4
12	558-B	1		AMD	PL 502	E30	12	6446	4		AMD	PL 568	5
12	558-C			NEW	PL 666	11	12	6446	6		NEW	PL 568	6
12	559	4		AMD	PL 502	E30	12	6447	5		AMD	PL 568	7
12	559	5	A	AMD	PL 502	E30	12	6447	6		AMD	PL 568	7
12	559	5	B	AMD	PL 502	E30	12	6501	6		AMD	PL 536	A6
12	559	6		AMD	PL 502	E30	12	6505			RP	PL 536	A7
12	559	7		AMD	PL 502	E30	12	6505-A			NEW	PL 536	A8
12	585	3		AMD	PL 502	E15,32	12	6505-B			NEW	PL 536	A8
12	585	4		AMD	PL 502	E30	12	6505-C			NEW	PL 536	A8
12	585	4	J	AMD	PL 502	E30	12	6505-D			NEW	PL 536	A8
12	589			AMD	PL 502	E30	12	6535	1		AMD	PL 530	1
12	590	4		AMD	PL 502	E30	12	6535	2		AMD	PL 530	1
12	591	3		AMD	PL 502	E30	12	6536			NEW	PL 530	2
12	594	5		AMD	PL 666	12	12	6575			AFF	PL 536	A13
12	598-A	2		RP	PL 502	E16	12	6575			NEW	PL 536	A9
12	598-A	2-A		NEW	PL 502	E17	12	6575-A			AFF	PL 536	A13
12	598-A	3		RP	PL 502	E18	12	6575-A			NEW	PL 536	A9
12	602	1		AMD	PL 502	E19	12	6575-B			NEW	PL 536	A9
12	602	4		AMD	PL 502	E20	12	6575-C			NEW	PL 536	A9
12	602	5		AMD	PL 502	E30	12	6575-D			NEW	PL 536	A9
12	602	12		AMD	PL 502	E21	12	6575-E			NEW	PL 536	A9
12	602	13		AMD	PL 502	E22	12	6671	2		AMD	PL 531	1
12	602	15	A	AMD	PL 502	E30	12	6671	3-A	F	AMD	PL 531	2
12	602	16		AMD	PL 502	E23	12	6671	7		AMD	PL 531	3
12	602	19	B	AMD	PL 502	E30	12	6749-N			AFF	PL 595	6
12	602-A			AMD	PL 502	E30	12	6749-N			AMD	PL 595	2
12	605-A			AMD	PL 502	E24	12	6749-O	1		AMD	PL 595	3
12	662	2		AMD	PL 502	E30	12	6749-O	2		AMD	PL 595	3
12	664			AMD	PL 502	E30	12	6749-P			AMD	PL 595	4
12	674-A			AMD	PL 502	E30	12	6749-V			AFF	PL 595	6
12	678			AMD	PL 502	E25	12	6749-V			NEW	PL 595	5
12	801			AMD	PL 502	E30	12	6749-W			AFF	PL 595	6
12	900			AMD	PL 502	E30	12	6749-W			NEW	PL 595	5
12	906			AMD	PL 502	E30	12	6749-X			NEW	PL 595	5
12	5013	3		RPR	PL 502	E26	12	6749-Y			NEW	PL 595	5
12	5013	4		RP	PL 502	E27	12	6749-Z			NEW	PL 595	5
12	5013	5		AMD	PL 502	E32	12	6864			AFF	PL 536	A13
12	5016			NEW	PL 502	E28	12	6864			NEW	PL 536	A10
12	6001	13-C		NEW	PL 536	A1	12	6954-B			AMD	PL 518	1
12	6001	13-D		NEW	PL 536	A1	12	7001	6-A		NEW	PL 536	B1
12	6001	13-E		NEW	PL 536	A1	12	7001	6-B		NEW	PL 536	B1
12	6001	13-F		NEW	PL 536	A1	12	7001	6-C		NEW	PL 536	B1
12	6001	13-G		NEW	PL 536	A1	12	7001	7		AMD	PL 667	A2
12	6001	17-C		NEW	PL 536	A2	12	7001	36		AMD	PL 667	A3
12	6001	20-A		NEW	PL 536	A2	12	7001	37-A		NEW	PL 536	B1
12	6001	29		AFF	PL 536	A13	12	7001	39-A		NEW	PL 536	B1
12	6001	29		AMD	PL 536	A3	12	7034	1		AMD	PL 667	A4
12	6001	40-A		NEW	PL 536	A4	12	7035	8		AMD	PL 667	A5
12	6030			NEW	PL 507	1	12	7035	13	A	AMD	PL 667	A6
12	6072	9		AMD	PL 502	E30	12	7035	16		NEW	PL 667	A7
12	6074			AMD	PL 567	1	12	7056	2		AMD	PL 502	E30
12	6074	8		NEW	PL 567	2	12	7064			NEW	PL 667	A8
12	6078			RPR	PL 609	2	12	7071	4		AMD	PL 667	A9
12	6080			NEW	PL 609	3	12	7072	3		RP	PL 667	A10
12	6141			AMD	PL 665	M1	12	7072	4		NEW	PL 667	A11
12	6308			AFF	PL 694	E2	12	7073	5		RPR	PL 667	A12
12	6308			AMD	PL 694	D9	12	7074	1		RP	PL 667	A13
12	6309	2		AFF	PL 694	E2	12	7074	1-A		NEW	PL 667	A14
12	6309	2		AMD	PL 694	D10	12	7074	5		AMD	PL 667	A15
12	6404-A			NEW	PL 536	A5	12	7074	6		RP	PL 667	A16
12	6421			AMD	PL 568	1	12	7076	8	A	AFF	PL 560	K83
12	6422	1		AMD	PL 568	2	12	7076	8	A	AMD	PL 560	K82
12	6422	4		AMD	PL 568	2	12	7076	12		RP	PL 667	A17
12	6431-D	2	A	AMD	PL 568	3	12	7077	1-A	B	AMD	PL 679	1
12	6431-D	2	B	AMD	PL 568	3	12	7077-A	1-A		NEW	PL 679	2

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12	7079 -A			AMD	PL 694	D11	12	8901	2	D	AMD	PL 502	E30
12	7079 -B	2		AFF	PL 694	E2	12	8901	3		AMD	PL 502	E30
12	7079 -B	2		AMD	PL 694	D12	12	9001	1		AMD	PL 586	1
12	7101	5	H1	AMD	PL 667	A18	12	9001	2		AMD	PL 586	1
12	7101	5	H2	NEW	PL 667	A19	12	9001	3		RP	PL 586	2
12	7101	7		AMD	PL 667	A20	12	9001 -A			NEW	PL 586	3
12	7107 -A	4	B	AMD	PL 667	A21	12	9001 -B			NEW	PL 586	3
12	7108	1		AMD	PL 667	A22	12	9002			AMD	PL 586	4
12	7153			RPR	PL 536	B2	12	9003			AMD	PL 586	4
12	7171	4	B	AMD	PL 667	A23	12	9004			RPR	PL 586	5
12	7313	5		AMD	PL 667	A24	12	9901	2		RPR	PL 535	1
12	7313	6		NEW	PL 667	A25	12	9902			AMD	PL 535	2
12	7320	3		AMD	PL 667	A26	12	9902	4		AMD	PL 535	3
12	7322	6		AMD	PL 502	E30	12	9902	6		RP	PL 667	A36
12	7363	4		AMD	PL 502	E30	12	9904	4		RP	PL 535	4
12	7365 -A			NEW	PL 626	1	12	9904	5		RP	PL 535	4
12	7366	3		AMD	PL 667	B2							
12	7366	4		AMD	PL 667	B3							
12	7366 -A			NEW	PL 667	B4	13	708 -A	3	B	AMD	PL 526	1
12	7368	2-A	B	AMD	PL 667	B5							
12	7369	10	A	AMD	PL 667	B6	13A	301	1	D	AMD	PL 633	C4
12	7369	12	A	NEW	PL 667	B7	13A	301	1	E	AMD	PL 633	C5
12	7376			AMD	PL 667	A27	13A	301	1	F	NEW	PL 633	C6
12	7406	3		AMD	PL 679	3	13A	1106	2		RPR	PL 514	1
12	7406	16	C	AMD	PL 667	A28							
12	7406	16	D	AMD	PL 667	A29	13B	301	1	E	AMD	PL 633	C7
12	7406	16	E	NEW	PL 667	A30	13B	301	1	F	AMD	PL 633	C8
12	7406	20	C	NEW	PL 667	A31	13B	301	1	G	NEW	PL 633	C9
12	7408			AMD	PL 679	4	13B	301	3		AMD	PL 514	2
12	7451	3	A	AMD	PL 667	A32							
12	7481			NEW	PL 667	C2							
12	7482			NEW	PL 667	C2	14	159 -A			AMD	PL 566	1
12	7483			NEW	PL 667	C2	14	252			AFF	PL 694	E2
12	7753	3		AMD	PL 667	A33	14	252			AMD	PL 694	D13
12	7753	3-A		NEW	PL 667	A34	14	301			AFF	PL 694	E2
12	7759	3		AMD	PL 508	1	14	301			NEW	PL 694	C1
12	7781	3		AMD	PL 502	E32	14	302			AFF	PL 694	E2
12	7788	1		AMD	PL 502	E32	14	302			NEW	PL 694	C1
12	7789	2	D	AMD	PL 502	E32	14	303			AFF	PL 694	E2
12	7794	9		RP	PL 695	1	14	303			NEW	PL 694	C1
12	7794	9-A		NEW	PL 695	2	14	304			AFF	PL 694	E2
12	7801	9		AMD	PL 679	5	14	304			NEW	PL 694	C1
12	7801	16		AMD	PL 667	B8	14	704 -A	2	E	AFF	PL 694	E2
12	7824	3	A	AMD	PL 502	E30	14	704 -A	2	E	AMD	PL 694	D14
12	7824	3	B	AMD	PL 502	E30	14	705			AFF	PL 694	E2
12	7824	3	D	AMD	PL 502	E30	14	705			AMD	PL 694	D15
12	7824	4	B	AMD	PL 502	E30	14	752 -B			AFF	PL 560	H17
12	7824	4	C	AMD	PL 502	E30	14	752 -B			AMD	PL 560	H5
12	7827	9		AMD	PL 679	6	14	1403			NEW	PL 576	1
12	7827	9-A		AMD	PL 679	7	14	2401	2		AFF	PL 694	E2
12	7828			AMD	PL 679	8	14	2401	2		AMD	PL 694	D16
12	7851	2-B		AMD	PL 502	E32	14	3121 -A	1		AFF	PL 694	E2
12	7857	10		AMD	PL 679	9	14	3121 -A	1		AMD	PL 694	D17
12	7857	10-A		AMD	PL 679	10	14	3128 -A	1		AFF	PL 694	E2
12	7860			AMD	PL 679	11	14	3128 -A	1		AMD	PL 694	D18
12	7901	13		AMD	PL 679	12	14	3134	1		AFF	PL 694	E2
12	7910	9	E	AMD	PL 502	E30	14	3134	1		AMD	PL 694	D19
12	7912	2		AMD	PL 679	13	14	3135			AFF	PL 694	E2
12	7912	4		AMD	PL 679	13	14	3135			AMD	PL 694	D20
12	7912	5		AMD	PL 679	13	14	5545			AFF	PL 560	K83
12	7912	7		AMD	PL 679	13	14	5545			AMD	PL 560	K82
12	7912	10		AMD	PL 679	13	14	6030 -A			NEW	PL 650	8
12	7912	11		AMD	PL 679	13	14	6051	9		AFF	PL 694	E2
12	7912	12		AMD	PL 679	13	14	6051	9		AMD	PL 694	D21
12	7912	13		NEW	PL 679	14	14	6111	1		AMD	PL 654	1

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14	6111	2		RP	PL 654	2	17A	255	1	I	AMD	PL 560	K82
14	6111	3		AMD	PL 654	3	17A	302	3		AMD	PL 689	1
14	6111	4		NEW	PL 654	4	17A	402	1	C	AMD	PL 529	1
14	7551-B			NEW	PL 585	1	17A	402	4		NEW	PL 529	2
14	7552			AMD	PL 585	2	17A	404	1		AMD	PL 529	3
14	7552	2		AMD	PL 585	3	17A	506-A	1		AFF	PL 694	E2
14	7552	3		AMD	PL 585	3	17A	506-A	1		AMD	PL 694	D24
14	7552	4		AMD	PL 585	3	17A	506-B	3		AFF	PL 694	E2
14	7552	8		NEW	PL 585	4	17A	506-B	3		AMD	PL 694	D25
14	8102	4		AMD	PL 543	1	17A	553	2		AFF	PL 694	E2
14	8104-A	2	A	AMD	PL 630	1	17A	553	2		AMD	PL 694	C2
15	101-B	4	B	AFF	PL 560	K83	17A	554	1	B	AFF	PL 694	E2
15	101-B	4	B	AMD	PL 560	K82	17A	554	1	B	AMD	PL 694	C3
15	812	2		AMD	PL 680	1	17A	554	1	B1	AFF	PL 694	E2
15	891			AFF	PL 694	E2	17A	554	1	B1	NEW	PL 694	C4
15	891			AMD	PL 694	D22	17A	805	1	A	RPR	PL 625	A20
15	2313			AFF	PL 560	K83	17A	805	1	B	RPR	PL 625	A20
15	2313			AMD	PL 560	K82	17A	851	1		AMD	PL 638	1
15	3005			AMD	PL 502	F4	17A	851	1-A		AMD	PL 638	2
15	3103	1	E	AMD	PL 679	15	17A	851	2		AMD	PL 638	3
15	3203-A	7	B1	AMD	PL 647	1	17A	908			NEW	PL 681	1
15	3203-A	7	B2	AMD	PL 647	2	17A	952	3		RPR	PL 674	4
15	3308	7	D	NEW	PL 690	1	17A	1102	1	F	RPR	PL 635	1
15	3309-A	2		AFF	PL 690	7	17A	1103	3	B	AMD	PL 635	2
15	3309-A	2		AMD	PL 690	2	17A	1105	1	B	AMD	PL 635	3
15	3309-A	3		AFF	PL 690	7	17A	1105	1	D	AMD	PL 635	4
15	3309-A	3		AMD	PL 690	3	17A	1106	3	B	AMD	PL 635	5
15	3309-A	4		AFF	PL 690	7	17A	1107	2		RPR	PL 635	6
15	3309-A	4		NEW	PL 690	4	17A	1152	2-C		NEW	PL 680	4
15	3313	3		NEW	PL 690	5	17A	1152	4		AFF	PL 560	K83
15	3314	1	F	AMD	PL 502	F5	17A	1152	4		AMD	PL 560	K82
15	3314	1	E	RPR	PL 690	6	17A	1171			NEW	PL 680	5
15	3314	2		AMD	PL 502	F6	17A	1172			NEW	PL 680	5
15	3314	2		AMD	PL 647	3	17A	1173			NEW	PL 680	5
15	3314	4		AMD	PL 502	F7	17A	1174			NEW	PL 680	5
15	3315	3		NEW	PL 502	F8	17A	1175			NEW	PL 680	5
15	3316	2	A	AMD	PL 502	F9	17A	1204	1-A		AMD	PL 502	F11
15	3317			AMD	PL 502	F10	17A	1204	1-B		AMD	PL 502	F12
15	6101			AMD	PL 680	2	17A	1204	1-C		NEW	PL 680	6
16	458			AMD	PL 502	E30	17A	1204	2-A	D	AFF	PL 694	E2
17	314			AMD	PL 677	4	17A	1204	2-A	D	AMD	PL 694	D26
17	330	2		RPR	PL 674	1	17A	1205	1		AMD	PL 502	F13
17	330	2-A		RPR	PL 674	2	17A	1205-A	2		AMD	PL 502	F14
17	343			AMD	PL 674	3	17A	1205-A	3		AMD	PL 502	F14
17	2263	2		AMD	PL 667	A37	17A	1205-A	4		AMD	PL 502	F14
17	2509			AFF	PL 560	H17	17A	1257	1		AMD	PL 680	7
17	2509			AMD	PL 560	H6	17A	1257	2		RPR	PL 680	8
17	3203			RPR	PL 625	B3	17A	1257	3		RP	PL 680	9
17	3853-D			AMD	PL 539	1	17A	1257-A			RP	PL 680	10
17A	2	5-A		AMD	PL 625	A19	17A	1262	7		AMD	PL 502	F15
17A	15			RPR	PL 680	3	17A	1326			AMD	PL 502	F16
17A	15	1	A	RPR	PL 668	2	17A	1330	2		AMD	PL 534	1
17A	210-A			NEW	PL 668	3	17A	1345	3		AMD	PL 502	F17
17A	212	1		AFF	PL 694	E2	18A	1-501			AMD	PL 683	2
17A	212	1		AMD	PL 694	D23	18A	1-701			AFF	PL 694	E2
17A	212	3		AMD	PL 650	9	18A	1-701			NEW	PL 694	C5
17A	253	2	J	AFF	PL 560	K83	18A	2-109	3		AFF	PL 694	E2
17A	253	2	J	AMD	PL 560	K82	18A	2-109	3		NEW	PL 694	C6
17A	255	1	I	AFF	PL 560	K83	18A	2-804	B		AMD	PL 577	1
							18A	3-703	A		AFF	PL 525	4
							18A	3-703	A		AMD	PL 525	1
							18A	5-204			RPR	PL 623	1
							18A	5-212	D		NEW	PL 623	2
							18A	5-601	B		AFF	PL 560	K83

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18A	5-606	A		AFF	PL 560	K83	18A	9-401			NEW	PL 694	C7
18A	5-606	A		AMD	PL 560	K5	18A	9-402			AFF	PL 694	E2
18A	5-606	C		AFF	PL 560	K83	18A	9-402			NEW	PL 694	C7
18A	5-606	C		AMD	PL 560	K82	18A	9-403			AFF	PL 694	E2
18A	5-613	1		AFF	PL 560	K83	18A	9-403			NEW	PL 694	C7
18A	5-613	1		AMD	PL 560	K6	18A	9-404			AFF	PL 694	E2
18A	5-804			AMD	PL 625	B4	18A	9-404			NEW	PL 694	C7
18A	7-302			AFF	PL 525	4							
18A	7-302			RPR	PL 525	2							
18A	9-101			AFF	PL 694	E2	19	1			AFF	PL 694	E2
18A	9-101			NEW	PL 694	C7	19	1			RP	PL 694	B1
18A	9-102			AFF	PL 694	E2	19	3			AFF	PL 694	E2
18A	9-102			NEW	PL 694	C7	19	3			RP	PL 694	B1
18A	9-103			AFF	PL 694	E2	19	4			AFF	PL 694	E2
18A	9-103			NEW	PL 694	C7	19	4			RP	PL 694	B1
18A	9-104			AFF	PL 694	E2	19	31			AFF	PL 694	E2
18A	9-104			NEW	PL 694	C7	19	31			RP	PL 694	B1
18A	9-105			AFF	PL 694	E2	19	32			AFF	PL 694	E2
18A	9-105			NEW	PL 694	C7	19	32			RP	PL 694	B1
18A	9-106			AFF	PL 694	E2	19	33			AFF	PL 694	E2
18A	9-106			NEW	PL 694	C7	19	33			RP	PL 694	B1
18A	9-107			AFF	PL 694	E2	19	61			AFF	PL 694	E2
18A	9-107			NEW	PL 694	C7	19	61			RP	PL 694	B1
18A	9-108			AFF	PL 694	E2	19	62			AFF	PL 694	E2
18A	9-108			NEW	PL 694	C7	19	62			RP	PL 694	B1
18A	9-201			AFF	PL 694	E2	19	62	1-A		AFF	PL 560	K83
18A	9-201			NEW	PL 694	C7	19	62	1-A		AMD	PL 560	K82
18A	9-202			AFF	PL 694	E2	19	63			AFF	PL 694	E2
18A	9-202			NEW	PL 694	C7	19	63			RP	PL 694	B1
18A	9-203			AFF	PL 694	E2	19	91			AFF	PL 694	E2
18A	9-203			NEW	PL 694	C7	19	91			RP	PL 694	B1
18A	9-204			AFF	PL 694	E2	19	92			AFF	PL 694	E2
18A	9-204			NEW	PL 694	C7	19	92			RP	PL 694	B1
18A	9-205			AFF	PL 694	E2	19	121			AFF	PL 694	E2
18A	9-205			NEW	PL 694	C7	19	121			RP	PL 694	B1
18A	9-301			AFF	PL 694	E2	19	122			AFF	PL 694	E2
18A	9-301			NEW	PL 694	C7	19	122			RP	PL 694	B1
18A	9-302			AFF	PL 694	E2	19	141			AFF	PL 694	E2
18A	9-302			NEW	PL 694	C7	19	141			RP	PL 694	B1
18A	9-303			AFF	PL 694	E2	19	142			AFF	PL 694	E2
18A	9-303			NEW	PL 694	C7	19	142			RP	PL 694	B1
18A	9-304			AFF	PL 694	E2	19	143			AFF	PL 694	E2
18A	9-304			NEW	PL 694	C7	19	143			RP	PL 694	B1
18A	9-305			AFF	PL 694	E2	19	144			AFF	PL 694	E2
18A	9-305			NEW	PL 694	C7	19	144			RP	PL 694	B1
18A	9-306			AFF	PL 694	E2	19	145			AFF	PL 694	E2
18A	9-306			NEW	PL 694	C7	19	145			RP	PL 694	B1
18A	9-307			AFF	PL 694	E2	19	146			AFF	PL 694	E2
18A	9-307			NEW	PL 694	C7	19	146			RP	PL 694	B1
18A	9-308			AFF	PL 694	E2	19	147			AFF	PL 694	E2
18A	9-308			NEW	PL 694	C7	19	147			RP	PL 694	B1
18A	9-309			AFF	PL 694	E2	19	148			AFF	PL 694	E2
18A	9-309			NEW	PL 694	C7	19	148			RP	PL 694	B1
18A	9-310			AFF	PL 694	E2	19	149			AFF	PL 694	E2
18A	9-310			NEW	PL 694	C7	19	149			RP	PL 694	B1
18A	9-311			AFF	PL 694	E2	19	150			AFF	PL 694	E2
18A	9-311			NEW	PL 694	C7	19	150			RP	PL 694	B1
18A	9-312			AFF	PL 694	E2	19	151			AFF	PL 694	E2
18A	9-312			NEW	PL 694	C7	19	151			RP	PL 694	B1
18A	9-313			AFF	PL 694	E2	19	161			AFF	PL 694	E2
18A	9-313			NEW	PL 694	C7	19	161			RP	PL 694	B1
18A	9-314			AFF	PL 694	E2	19	162			AFF	PL 694	E2
18A	9-314			NEW	PL 694	C7	19	162			RP	PL 694	B1
18A	9-315			AFF	PL 694	E2	19	163			AFF	PL 694	E2
18A	9-315			NEW	PL 694	C7	19	163			RP	PL 694	B1

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19	164			AFF	PL 694	E2	19	286			AFF	PL 694	E2
19	164			RP	PL 694	B1	19	286			RP	PL 694	B1
19	165			AFF	PL 694	E2	19	287			AFF	PL 694	E2
19	165			RP	PL 694	B1	19	287			RP	PL 694	B1
19	166			AFF	PL 694	E2	19	301			AFF	PL 694	E2
19	166			RP	PL 694	B1	19	301			RP	PL 694	B1
19	167			AFF	PL 694	E2	19	302			AFF	PL 694	E2
19	167			RP	PL 694	B1	19	302			RP	PL 694	B1
19	167 -A			AFF	PL 694	E2	19	303			AFF	PL 694	E2
19	167 -A			RP	PL 694	B1	19	303			RP	PL 694	B1
19	211			AFF	PL 694	E2	19	304			AFF	PL 694	E2
19	211			RP	PL 694	B1	19	304			RP	PL 694	B1
19	212			AFF	PL 694	E2	19	305			AFF	PL 694	E2
19	212			RP	PL 694	B1	19	305			RP	PL 694	B1
19	213			AFF	PL 694	E2	19	306			AFF	PL 694	E2
19	213			RP	PL 694	B1	19	306			RP	PL 694	B1
19	214			AFF	PL 694	E2	19	307			AFF	PL 694	E2
19	214			RP	PL 694	B1	19	307			RP	PL 694	B1
19	214	9		AMD	PL 694	A2	19	311			AFF	PL 694	E2
19	215			AFF	PL 694	E2	19	311			RP	PL 694	B1
19	215			RP	PL 694	B1	19	312			AFF	PL 694	E2
19	217			AFF	PL 694	E2	19	312			AMD	PL 694	A4
19	217			RP	PL 694	B1	19	312			RP	PL 694	B1
19	218			AFF	PL 694	E2	19	313			AFF	PL 694	E2
19	218			RP	PL 694	B1	19	313			RP	PL 694	B1
19	220			AFF	PL 694	E2	19	314			AFF	PL 694	E2
19	220			RP	PL 694	B1	19	314			RP	PL 694	B1
19	221			AFF	PL 694	E2	19	315			AFF	PL 694	E2
19	221			RP	PL 694	B1	19	315			AMD	PL 694	A4
19	271			AFF	PL 694	E2	19	315			RP	PL 694	B1
19	271			RP	PL 694	B1	19	316			AFF	PL 694	E2
19	272			AFF	PL 694	E2	19	316			RP	PL 694	B1
19	272			AMD	PL 694	A3	19	316	1-A		NEW	PL 694	A5
19	272			RP	PL 694	B1	19	317			AFF	PL 694	E2
19	273			AFF	PL 694	E2	19	317			RP	PL 694	B1
19	273			RP	PL 694	B1	19	318			AFF	PL 694	E2
19	274			AFF	PL 694	E2	19	318			RP	PL 694	B1
19	274			RP	PL 694	B1	19	319			AFF	PL 694	E2
19	275			AFF	PL 694	E2	19	319			RP	PL 694	B1
19	275			RP	PL 694	B1	19	320			AFF	PL 694	E2
19	276			AFF	PL 694	E2	19	320			RP	PL 694	B1
19	276			RP	PL 694	B1	19	421			AFF	PL 694	E2
19	277			AFF	PL 694	E2	19	421			RP	PL 694	B1
19	277			RP	PL 694	B1	19	421 -A			AFF	PL 694	E2
19	278			AFF	PL 694	E2	19	421 -A			RP	PL 694	B1
19	278			RP	PL 694	B1	19	421 -B			AFF	PL 694	E2
19	279			AFF	PL 694	E2	19	421 -B			RP	PL 694	B1
19	279			RP	PL 694	B1	19	422			AFF	PL 694	E2
19	280			AFF	PL 694	E2	19	422			RP	PL 694	B1
19	280			RP	PL 694	B1	19	422 -A			AFF	PL 694	E2
19	280 -A			AFF	PL 694	E2	19	422 -A			RP	PL 694	B1
19	280 -A			RP	PL 694	B1	19	422 -B			AFF	PL 694	E2
19	280 -B			AFF	PL 694	E2	19	422 -B			RP	PL 694	B1
19	280 -B			RP	PL 694	B1	19	422 -C			AFF	PL 694	E2
19	280 -C			AFF	PL 694	E2	19	422 -C			RP	PL 694	B1
19	280 -C			RP	PL 694	B1	19	422 -D			AFF	PL 694	E2
19	281			AFF	PL 694	E2	19	422 -D			RP	PL 694	B1
19	281			RP	PL 694	B1	19	422 -E			AFF	PL 694	E2
19	282			AFF	PL 694	E2	19	422 -E			RP	PL 694	B1
19	282			RP	PL 694	B1	19	422 -F			AFF	PL 694	E2
19	283			AFF	PL 694	E2	19	422 -F			RP	PL 694	B1
19	283			RP	PL 694	B1	19	422 -G			AFF	PL 694	E2
19	284			AFF	PL 694	E2	19	422 -G			RP	PL 694	B1
19	284			RP	PL 694	B1	19	422 -H			AFF	PL 694	E2
19	285			AFF	PL 694	E2	19	422 -H			RP	PL 694	B1
19	285			RP	PL 694	B1	19	423			AFF	PL 694	E2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19	423			RP	PL 694	B1	19	427			RP	PL 694	B1
19	423-A			AFF	PL 694	E2	19	428			AFF	PL 694	E2
19	423-A			RP	PL 694	B1	19	428			RP	PL 694	B1
19	423-B			AFF	PL 694	E2	19	428-A			AFF	PL 694	E2
19	423-B			RP	PL 694	B1	19	428-A			RP	PL 694	B1
19	423-C			AFF	PL 694	E2	19	429			AFF	PL 694	E2
19	423-C			RP	PL 694	B1	19	429			RP	PL 694	B1
19	423-D			AFF	PL 694	E2	19	429-A			AFF	PL 694	E2
19	423-D			RP	PL 694	B1	19	429-A			RP	PL 694	B1
19	423-E			AFF	PL 694	E2	19	429-B			AFF	PL 694	E2
19	423-E			RP	PL 694	B1	19	429-B			RP	PL 694	B1
19	423-F			AFF	PL 694	E2	19	441			AFF	PL 694	E2
19	423-F			RP	PL 694	B1	19	441			RP	PL 694	B1
19	423-G			AFF	PL 694	E2	19	443-A			AFF	PL 694	E2
19	423-G			RP	PL 694	B1	19	443-A			RP	PL 694	B1
19	423-H			AFF	PL 694	E2	19	444			AFF	PL 694	E2
19	423-H			RP	PL 694	B1	19	444			RP	PL 694	B1
19	423-I			AFF	PL 694	E2	19	445			AFF	PL 694	E2
19	423-I			RP	PL 694	B1	19	445			RP	PL 694	B1
19	423-J			AFF	PL 694	E2	19	446			AFF	PL 694	E2
19	423-J			RP	PL 694	B1	19	446			RP	PL 694	A6,B1
19	423-K			AFF	PL 694	E2	19	447			AFF	PL 694	E2
19	423-K			RP	PL 694	B1	19	447			RP	PL 694	B1
19	423-L			AFF	PL 694	E2	19	448			AFF	PL 694	E2
19	423-L			RP	PL 694	B1	19	448			AMD	PL 694	A7
19	423-M			AFF	PL 694	E2	19	448			RP	PL 694	B1
19	423-M			RP	PL 694	B1	19	448-A			AFF	PL 694	E2
19	423-N			AFF	PL 694	E2	19	448-A			RP	PL 694	B1
19	423-N			RP	PL 694	B1	19	449			AFF	PL 694	E2
19	423-O			AFF	PL 694	E2	19	449			RP	PL 694	B1
19	423-O			RP	PL 694	B1	19	450			AFF	PL 694	E2
19	423-P			AFF	PL 694	E2	19	450			RP	PL 694	B1
19	423-P			RP	PL 694	B1	19	451			AFF	PL 694	E2
19	423-Q			AFF	PL 694	E2	19	451			RP	PL 694	B1
19	423-Q			RP	PL 694	B1	19	452			AFF	PL 694	E2
19	423-R			AFF	PL 694	E2	19	452			RP	PL 694	B1
19	423-R			RP	PL 694	B1	19	453			AFF	PL 694	E2
19	424			AFF	PL 694	E2	19	453			RP	PL 694	B1
19	424			RP	PL 694	B1	19	483			AFF	PL 694	E2
19	425			AFF	PL 694	E2	19	483			RP	PL 694	B1
19	425			RP	PL 694	B1	19	486			AFF	PL 694	E2
19	425-A			AFF	PL 694	E2	19	486			RP	PL 694	B1
19	425-A			RP	PL 694	B1	19	487			AFF	PL 694	E2
19	426-A			AFF	PL 694	E2	19	487			RP	PL 694	B1
19	426-A			RP	PL 694	B1	19	491			AFF	PL 694	E2
19	426-B			AFF	PL 694	E2	19	491			RP	PL 694	B1
19	426-B			RP	PL 694	B1	19	492			AFF	PL 694	E2
19	426-C			AFF	PL 694	E2	19	492			RP	PL 694	B1
19	426-C			RP	PL 694	B1	19	492-A			AFF	PL 694	E2
19	426-D			AFF	PL 694	E2	19	492-A			RP	PL 694	B1
19	426-D			RP	PL 694	B1	19	493			AFF	PL 694	E2
19	426-E			AFF	PL 694	E2	19	493			RP	PL 694	B1
19	426-E			RP	PL 694	B1	19	494			AFF	PL 694	E2
19	426-F			AFF	PL 694	E2	19	494			RP	PL 694	B1
19	426-F			RP	PL 694	B1	19	494-A			AFF	PL 694	E2
19	426-G			AFF	PL 694	E2	19	494-A			RP	PL 694	B1
19	426-G			RP	PL 694	B1	19	494-B			AFF	PL 694	E2
19	426-H			AFF	PL 694	E2	19	494-B			RP	PL 694	B1
19	426-H			RP	PL 694	B1	19	495			AFF	PL 694	E2
19	426-I			AFF	PL 694	E2	19	495			RP	PL 694	B1
19	426-I			RP	PL 694	B1	19	496			AFF	PL 694	E2
19	426-J			AFF	PL 694	E2	19	496			RP	PL 694	B1
19	426-J			RP	PL 694	B1	19	497			AFF	PL 694	E2
19	426-K			AFF	PL 694	E2	19	497			RP	PL 694	B1
19	426-K			RP	PL 694	B1	19	497-B			AFF	PL 694	E2
19	427			AFF	PL 694	E2	19	497-B			RP	PL 694	B1

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19	498-B			AFF	PL 694	E2	19	520			AFF	PL 694	E2
19	498-B			RP	PL 694	B1	19	520			RP	PL 694	B1
19	498-C			AFF	PL 694	E2	19	521			AFF	PL 694	E2
19	498-C			RP	PL 694	B1	19	521			RP	PL 694	B1
19	498-D			AFF	PL 694	E2	19	522			AFF	PL 694	E2
19	498-D			RP	PL 694	B1	19	522			RP	PL 694	B1
19	498-E			AFF	PL 694	E2	19	522	4		AMD	PL 694	A8
19	498-E			RP	PL 694	B1	19	523			AFF	PL 694	E2
19	499			AFF	PL 694	E2	19	523			RP	PL 694	B1
19	499			RP	PL 694	B1	19	524			AFF	PL 694	E2
19	500			AFF	PL 694	E2	19	524			RP	PL 694	B1
19	500			RP	PL 694	B1	19	525			AFF	PL 694	E2
19	500-A			AFF	PL 694	E2	19	525			RP	PL 694	B1
19	500-A			RP	PL 694	B1	19	526			AFF	PL 694	E2
19	501			AFF	PL 694	E2	19	526			RP	PL 694	B1
19	501			RP	PL 694	B1	19	527			AFF	PL 694	E2
19	501-A			AFF	PL 694	E2	19	527			RP	PL 694	B1
19	501-A			RP	PL 694	B1	19	528			AFF	PL 694	E2
19	502			AFF	PL 694	E2	19	528			RP	PL 694	B1
19	502			RP	PL 694	B1	19	529			AFF	PL 694	E2
19	503-A			AFF	PL 694	E2	19	529			RP	PL 694	B1
19	503-A			RP	PL 694	B1	19	530			AFF	PL 694	E2
19	504			AFF	PL 694	E2	19	530			RP	PL 694	B1
19	504			RP	PL 694	B1	19	581			AFF	PL 694	E2
19	504-A			AFF	PL 694	E2	19	581			RP	PL 694	B1
19	504-A			RP	PL 694	B1	19	584			AFF	PL 694	E2
19	504-B			AFF	PL 694	E2	19	584			RP	PL 694	B1
19	504-B			RP	PL 694	B1	19	585			AFF	PL 694	E2
19	504-B	2		AFF	PL 652	4	19	585			RP	PL 694	B1
19	504-B	2		RP	PL 652	3	19	586			AFF	PL 694	E2
19	504-C			AFF	PL 694	E2	19	586			RP	PL 694	B1
19	504-C			RP	PL 694	B1	19	588			AFF	PL 694	E2
19	505			AFF	PL 694	E2	19	588			RP	PL 694	B1
19	505			RP	PL 694	B1	19	631			AFF	PL 694	E2
19	506			AFF	PL 694	E2	19	631			RP	PL 694	B1
19	506			RP	PL 694	B1	19	632			AFF	PL 694	E2
19	507			AFF	PL 694	E2	19	632			RP	PL 694	B1
19	507			RP	PL 694	B1	19	633			AFF	PL 694	E2
19	508			AFF	PL 694	E2	19	633			RP	PL 694	B1
19	508			RP	PL 694	B1	19	634			AFF	PL 694	E2
19	509			AFF	PL 694	E2	19	634			RP	PL 694	B1
19	509			RP	PL 694	B1	19	635			AFF	PL 694	E2
19	510			AFF	PL 694	E2	19	635			RP	PL 694	B1
19	510			RP	PL 694	B1	19	636			AFF	PL 694	E2
19	511			AFF	PL 694	E2	19	636			RP	PL 694	B1
19	511			RP	PL 694	B1	19	661			AFF	PL 694	E2
19	512			AFF	PL 694	E2	19	661			RP	PL 694	B1
19	512			RP	PL 694	B1	19	662			AFF	PL 694	E2
19	512-A			AFF	PL 694	E2	19	662			RP	PL 694	B1
19	512-A			RP	PL 694	B1	19	663			AFF	PL 694	E2
19	513			AFF	PL 694	E2	19	663			RP	PL 694	B1
19	513			RP	PL 694	B1	19	664			AFF	PL 694	E2
19	514			AFF	PL 694	E2	19	664			RP	PL 694	B1
19	514			RP	PL 694	B1	19	665			AFF	PL 694	E2
19	515			AFF	PL 694	E2	19	665			RP	PL 694	B1
19	515			RP	PL 694	B1	19	691			AFF	PL 694	E2
19	515-A			AFF	PL 694	E2	19	691			RP	PL 694	B1
19	515-A			RP	PL 694	B1	19	692-A			AFF	PL 694	E2
19	516			AFF	PL 694	E2	19	692-A			RP	PL 694	B1
19	516			RP	PL 694	B1	19	693			AFF	PL 694	E2
19	517			AFF	PL 694	E2	19	693			RP	PL 694	B1
19	517			RP	PL 694	B1	19	694			AFF	PL 694	E2
19	518			AFF	PL 694	E2	19	694			RP	PL 694	B1
19	518			RP	PL 694	B1	19	695			AFF	PL 694	E2
19	519			AFF	PL 694	E2	19	695			RP	PL 694	B1
19	519			RP	PL 694	B1	19	721			AFF	PL 694	E2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19	721			RP	PL 694	B1	19	774-A			RP	PL 694	B1
19	722			AFF	PL 694	E2	19	774-B			AFF	PL 694	E2
19	722			RP	PL 694	B1	19	774-B			RP	PL 694	B1
19	722-A			AFF	PL 694	E2	19	775			AFF	PL 694	E2
19	722-A			RP	PL 694	B1	19	775			RP	PL 694	B1
19	722-B			AFF	PL 694	E2	19	776			AFF	PL 694	E2
19	722-B			RP	PL 694	B1	19	776			RP	PL 694	B1
19	724			AFF	PL 694	E2	19	777-B			AFF	PL 694	E2
19	724			RP	PL 694	B1	19	777-B			RP	PL 694	B1
19	725			AFF	PL 694	E2	19	777-C			AFF	PL 694	E2
19	725			RP	PL 694	B1	19	777-C			RP	PL 694	B1
19	726			AFF	PL 694	E2	19	777-D			AFF	PL 694	E2
19	726			RP	PL 694	B1	19	777-D			RP	PL 694	B1
19	751			AFF	PL 694	E2	19	777-E			AFF	PL 694	E2
19	751			RP	PL 694	B1	19	777-E			RP	PL 694	B1
19	752			AFF	PL 694	E2	19	778			AFF	PL 694	E2
19	752			RP	PL 694	B1	19	778			RP	PL 694	B1
19	752-A			AFF	PL 694	E2	19	779			AFF	PL 694	E2
19	752-A			RP	PL 694	B1	19	779			RP	PL 694	B1
19	753			AFF	PL 694	E2	19	780			AFF	PL 694	E2
19	753			RP	PL 694	B1	19	780			RP	PL 694	B1
19	761-A			AFF	PL 694	E2	19	780-A			AFF	PL 694	E2
19	761-A			RP	PL 694	B1	19	780-A			RP	PL 694	B1
19	762			AFF	PL 694	E2	19	780-B			AFF	PL 694	E2
19	762			RP	PL 694	B1	19	780-B			RP	PL 694	B1
19	762	4		AMD	PL 650	10	19	780-C			AFF	PL 694	E2
19	763			AMD	PL 650	11	19	780-C			RP	PL 694	B1
19	763			AFF	PL 694	E2	19	780-D			AFF	PL 694	E2
19	763			RP	PL 694	B1	19	780-D			RP	PL 694	B1
19	763-A			AFF	PL 694	E2	19	780-E			AFF	PL 694	E2
19	763-A			RP	PL 694	B1	19	780-E			RP	PL 694	B1
19	764			AFF	PL 694	E2	19	780-F			AFF	PL 694	E2
19	764			RP	PL 694	B1	19	780-F			RP	PL 694	B1
19	765			AFF	PL 694	E2	19	780-G			AFF	PL 694	E2
19	765			RP	PL 694	B1	19	780-G			RP	PL 694	B1
19	765	4	C1	AMD	PL 650	12	19	780-H			AFF	PL 694	E2
19	765	4	D	AMD	PL 650	13	19	780-H			RP	PL 694	B1
19	765	4	E	NEW	PL 650	14	19	780-I			AFF	PL 694	E2
19	766			AFF	PL 694	E2	19	780-I			RP	PL 694	B1
19	766			RP	PL 694	B1	19	780-J			AFF	PL 694	E2
19	766	1	B3	NEW	PL 650	15	19	780-J			RP	PL 694	B1
19	766-A			AFF	PL 694	E2	19	780-K			AFF	PL 694	E2
19	766-A			RP	PL 694	B1	19	780-K			RP	PL 694	B1
19	767			AFF	PL 694	E2	19	780-L			AFF	PL 694	E2
19	767			RP	PL 694	B1	19	780-L			RP	PL 694	B1
19	768			AFF	PL 694	E2	19	780-M			AFF	PL 694	E2
19	768			RP	PL 694	B1	19	780-M			RP	PL 694	B1
19	769			AFF	PL 694	E2	19	780-N			AFF	PL 694	E2
19	769			RP	PL 694	B1	19	780-N			RP	PL 694	B1
19	769	3		NEW	PL 668	4	19	780-O			AFF	PL 694	E2
19	770			AFF	PL 694	E2	19	780-O			RP	PL 694	B1
19	770			RP	PL 694	B1	19	780-P			AFF	PL 694	E2
19	770-B			AFF	PL 694	E2	19	780-P			RP	PL 694	B1
19	770-B			RP	PL 694	B1	19	780-Q			AFF	PL 694	E2
19	770-B	1	A	AMD	PL 519	5	19	780-Q			RP	PL 694	B1
19	770-C			AFF	PL 694	E2	19	780-R			AFF	PL 694	E2
19	770-C			RP	PL 694	B1	19	780-R			RP	PL 694	B1
19	771			AFF	PL 694	E2	19	781			AFF	PL 694	E2
19	771			RP	PL 694	B1	19	781			RP	PL 694	B1
19	772			AFF	PL 694	E2	19	801			AFF	PL 694	E2
19	772			RP	PL 694	B1	19	801			RP	PL 694	B1
19	773			AFF	PL 694	E2	19	802			AFF	PL 694	E2
19	773			RP	PL 694	B1	19	802			RP	PL 694	B1
19	774			AFF	PL 694	E2	19	803			AFF	PL 694	E2
19	774			RP	PL 694	B1	19	803			RP	PL 694	B1
19	774-A			AFF	PL 694	E2	19	804			AFF	PL 694	E2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19	804			RP	PL 694	B1	19	1101			RP	PL 694	B1
19	805			AFF	PL 694	E2	19	1102			AFF	PL 694	E2
19	805			RP	PL 694	B1	19	1102			RP	PL 694	B1
19	806			AFF	PL 694	E2	19	1103			AFF	PL 694	E2
19	806			RP	PL 694	B1	19	1103			RP	PL 694	B1
19	807			AFF	PL 694	E2	19	1104			AFF	PL 694	E2
19	807			RP	PL 694	B1	19	1104			RP	PL 694	B1
19	808			AFF	PL 694	E2	19	1105			AFF	PL 694	E2
19	808			RP	PL 694	B1	19	1105			RP	PL 694	B1
19	809			AFF	PL 694	E2	19	1106			AFF	PL 694	E2
19	809			RP	PL 694	B1	19	1106			RP	PL 694	B1
19	810			AFF	PL 694	E2	19	1107			AFF	PL 694	E2
19	810			RP	PL 694	B1	19	1107			RP	PL 694	B1
19	811			AFF	PL 694	E2	19	1108			AFF	PL 694	E2
19	811			RP	PL 694	B1	19	1108			RP	PL 694	B1
19	812			AFF	PL 694	E2	19	1111			AFF	PL 694	E2
19	812			RP	PL 694	B1	19	1111			RP	PL 694	B1
19	813			AFF	PL 694	E2	19	1111	2		AMD	PL 694	A9
19	813			RP	PL 694	B1	19	1111	2-A		RPR	PL 694	A10
19	814			AFF	PL 694	E2	19	1111	7		AMD	PL 694	A11
19	814			RP	PL 694	B1	19	1112			AFF	PL 694	E2
19	815			AFF	PL 694	E2	19	1112			RP	PL 694	B1
19	815			RP	PL 694	B1	19	1112	1		AMD	PL 694	A12
19	816			AFF	PL 694	E2	19	1112	8		RPR	PL 694	A13
19	816			RP	PL 694	B1	19	1113			AFF	PL 694	E2
19	817			AFF	PL 694	E2	19	1113			RP	PL 694	B1
19	817			RP	PL 694	B1	19	1114			AFF	PL 694	E2
19	818			AFF	PL 694	E2	19	1114			RP	PL 694	B1
19	818			RP	PL 694	B1	19	1115			AFF	PL 694	E2
19	819			AFF	PL 694	E2	19	1115			RP	PL 694	B1
19	819			RP	PL 694	B1	19	1121			AFF	PL 694	E2
19	820			AFF	PL 694	E2	19	1121			RP	PL 694	B1
19	820			RP	PL 694	B1	19	1122			AFF	PL 694	E2
19	821			AFF	PL 694	E2	19	1122			RP	PL 694	B1
19	821			RP	PL 694	B1	19	1123			AFF	PL 694	E2
19	822			AFF	PL 694	E2	19	1123			RP	PL 694	B1
19	822			RP	PL 694	B1	19	1125			AFF	PL 694	E2
19	823			AFF	PL 694	E2	19	1125			RP	PL 694	B1
19	823			RP	PL 694	B1	19	1126			AFF	PL 694	E2
19	824			AFF	PL 694	E2	19	1126			RP	PL 694	B1
19	824			RP	PL 694	B1	19	1127			AFF	PL 694	E2
19	825			AFF	PL 694	E2	19	1127			RP	PL 694	B1
19	825			RP	PL 694	B1	19	1128			AFF	PL 694	E2
19	901			AFF	PL 694	E2	19	1128			RP	PL 694	B1
19	901			RP	PL 694	B1	19	1129			AFF	PL 694	E2
19	902			AFF	PL 694	E2	19	1129			RP	PL 694	B1
19	902			RP	PL 694	B1	19	1129	4		AMD	PL 694	A14
19	903			AFF	PL 694	E2	19	1130			AFF	PL 694	E2
19	903			RP	PL 694	B1	19	1130			RP	PL 694	B1
19	904			AFF	PL 694	E2	19	1131			AFF	PL 694	E2
19	904			RP	PL 694	B1	19	1131			RP	PL 694	B1
19	905			AFF	PL 694	E2	19	1132			AFF	PL 694	E2
19	905			RP	PL 694	B1	19	1132			RP	PL 694	B1
19	906			AFF	PL 694	E2	19	1133			AFF	PL 694	E2
19	906			RP	PL 694	B1	19	1133			RP	PL 694	B1
19	1001			AFF	PL 694	E2	19	1134			AFF	PL 694	E2
19	1001			RP	PL 694	B1	19	1134			RP	PL 694	B1
19	1002			AFF	PL 694	E2	19	1135			AFF	PL 694	E2
19	1002			RP	PL 694	B1	19	1135			RP	PL 694	B1
19	1003			AFF	PL 694	E2	19	1136			AFF	PL 694	E2
19	1003			RP	PL 694	B1	19	1136			RP	PL 694	B1
19	1003-A			AFF	PL 694	E2	19	1141			AFF	PL 694	E2
19	1003-A			RP	PL 694	B1	19	1141			RP	PL 694	B1
19	1004			AFF	PL 694	E2	19	1142			AFF	PL 694	E2
19	1004			RP	PL 694	B1	19	1142			RP	PL 694	B1
19	1101			AFF	PL 694	E2	19	1143			AFF	PL 694	E2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19	1143			RP	PL 694	B1	19A	611			AFF	PL 694	E2
19	1144			AFF	PL 694	E2	19A	611			NEW	PL 694	B2
19	1144			RP	PL 694	B1	19A	651			AFF	PL 694	E2
19	2001			AFF	PL 694	E2	19A	651			NEW	PL 694	B2
19	2001			NEW	PL 694	A15	19A	652			AFF	PL 694	E2
19	2001			RP	PL 694	B1	19A	652			NEW	PL 694	B2
19	2002			AFF	PL 694	E2	19A	653			AFF	PL 694	E2
19	2002			NEW	PL 694	A15	19A	653			NEW	PL 694	B2
19	2002			RP	PL 694	B1	19A	654			AFF	PL 694	E2
19	2003			AFF	PL 694	E2	19A	654			NEW	PL 694	B2
19	2003			NEW	PL 694	A15	19A	655			AFF	PL 694	E2
19	2003			RP	PL 694	B1	19A	655			NEW	PL 694	B2
19	2004			AFF	PL 694	E2	19A	656			AFF	PL 694	E2
19	2004			NEW	PL 694	A15	19A	656			NEW	PL 694	B2
19	2004			RP	PL 694	B1	19A	657			AFF	PL 694	E2
19	2005			AFF	PL 694	E2	19A	657			NEW	PL 694	B2
19	2005			NEW	PL 694	A15	19A	658			AFF	PL 694	E2
19	2005			RP	PL 694	B1	19A	658			NEW	PL 694	B2
19	2006			AFF	PL 694	E2	19A	659			AFF	PL 694	E2
19	2006			NEW	PL 694	A15	19A	659			NEW	PL 694	B2
19	2006			RP	PL 694	B1	19A	701			AFF	PL 694	E2
							19A	701			NEW	PL 694	B2
19A	101			AFF	PL 694	E2	19A	751			AFF	PL 694	E2
19A	101			NEW	PL 694	B2	19A	751			NEW	PL 694	B2
19A	102			AFF	PL 694	E2	19A	752			AFF	PL 694	E2
19A	102			NEW	PL 694	B2	19A	752			NEW	PL 694	B2
19A	103			AFF	PL 694	E2	19A	753			AFF	PL 694	E2
19A	103			NEW	PL 694	B2	19A	753			NEW	PL 694	B2
19A	104			AFF	PL 694	E2	19A	801			AFF	PL 694	E2
19A	104			NEW	PL 694	B2	19A	801			NEW	PL 694	B2
19A	251			AFF	PL 694	E2	19A	802			AFF	PL 694	E2
19A	251			NEW	PL 694	B2	19A	802			NEW	PL 694	B2
19A	252			AFF	PL 694	E2	19A	803			AFF	PL 694	E2
19A	252			NEW	PL 694	B2	19A	803			NEW	PL 694	B2
19A	351			AFF	PL 694	E2	19A	804			AFF	PL 694	E2
19A	351			NEW	PL 694	B2	19A	804			NEW	PL 694	B2
19A	352			AFF	PL 694	E2	19A	805			AFF	PL 694	E2
19A	352			NEW	PL 694	B2	19A	805			NEW	PL 694	B2
19A	353			AFF	PL 694	E2	19A	806			AFF	PL 694	E2
19A	353			NEW	PL 694	B2	19A	806			NEW	PL 694	B2
19A	354			AFF	PL 694	E2	19A	851			AFF	PL 694	E2
19A	354			NEW	PL 694	B2	19A	851			NEW	PL 694	B2
19A	355			AFF	PL 694	E2	19A	852			AFF	PL 694	E2
19A	355			NEW	PL 694	B2	19A	852			NEW	PL 694	B2
19A	356			AFF	PL 694	E2	19A	901			AFF	PL 694	E2
19A	356			NEW	PL 694	B2	19A	901			NEW	PL 694	B2
19A	601			AFF	PL 694	E2	19A	902			AFF	PL 694	E2
19A	601			NEW	PL 694	B2	19A	902			NEW	PL 694	B2
19A	602			AFF	PL 694	E2	19A	903			AFF	PL 694	E2
19A	602			NEW	PL 694	B2	19A	903			NEW	PL 694	B2
19A	603			AFF	PL 694	E2	19A	904			AFF	PL 694	E2
19A	603			NEW	PL 694	B2	19A	904			NEW	PL 694	B2
19A	604			AFF	PL 694	E2	19A	905			AFF	PL 694	E2
19A	604			NEW	PL 694	B2	19A	905			NEW	PL 694	B2
19A	605			AFF	PL 694	E2	19A	906			AFF	PL 694	E2
19A	605			NEW	PL 694	B2	19A	906			NEW	PL 694	B2
19A	606			AFF	PL 694	E2	19A	907			AFF	PL 694	E2
19A	606			NEW	PL 694	B2	19A	907			NEW	PL 694	B2
19A	607			AFF	PL 694	E2	19A	951			AFF	PL 694	E2
19A	607			NEW	PL 694	B2	19A	951			NEW	PL 694	B2
19A	608			AFF	PL 694	E2	19A	952			AFF	PL 694	E2
19A	608			NEW	PL 694	B2	19A	952			NEW	PL 694	B2
19A	609			AFF	PL 694	E2	19A	953			AFF	PL 694	E2
19A	609			NEW	PL 694	B2	19A	953			NEW	PL 694	B2
19A	610			AFF	PL 694	E2	19A	1001			AFF	PL 694	E2
19A	610			NEW	PL 694	B2	19A	1001			NEW	PL 694	B2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19A	1051			AFF	PL 694	E2	19A	1605			AFF	PL 694	E2
19A	1051			NEW	PL 694	B2	19A	1605			NEW	PL 694	B2
19A	1501			AFF	PL 694	E2	19A	1606			AFF	PL 694	E2
19A	1501			NEW	PL 694	B2	19A	1606			NEW	PL 694	B2
19A	1502			AFF	PL 694	E2	19A	1607			AFF	PL 694	E2
19A	1502			NEW	PL 694	B2	19A	1607			NEW	PL 694	B2
19A	1503			AFF	PL 694	E2	19A	1608			AFF	PL 694	E2
19A	1503			NEW	PL 694	B2	19A	1608			NEW	PL 694	B2
19A	1504			AFF	PL 694	E2	19A	1609			AFF	PL 694	E2
19A	1504			NEW	PL 694	B2	19A	1609			NEW	PL 694	B2
19A	1505			AFF	PL 694	E2	19A	1610			AFF	PL 694	E2
19A	1505			NEW	PL 694	B2	19A	1610			NEW	PL 694	B2
19A	1506			AFF	PL 694	E2	19A	1611			AFF	PL 694	E2
19A	1506			NEW	PL 694	B2	19A	1611			NEW	PL 694	B2
19A	1507			AFF	PL 694	E2	19A	1612			AFF	PL 694	E2
19A	1507			NEW	PL 694	B2	19A	1612			NEW	PL 694	B2
19A	1508			AFF	PL 694	E2	19A	1613			AFF	PL 694	E2
19A	1508			NEW	PL 694	B2	19A	1613			NEW	PL 694	B2
19A	1551			AFF	PL 694	E2	19A	1614			AFF	PL 694	E2
19A	1551			NEW	PL 694	B2	19A	1614			NEW	PL 694	B2
19A	1552			AFF	PL 694	E2	19A	1651			AFF	PL 694	E2
19A	1552			NEW	PL 694	B2	19A	1651			NEW	PL 694	B2
19A	1553			AFF	PL 694	E2	19A	1652			AFF	PL 694	E2
19A	1553			NEW	PL 694	B2	19A	1652			NEW	PL 694	B2
19A	1554			AFF	PL 694	E2	19A	1653			AFF	PL 694	E2
19A	1554			NEW	PL 694	B2	19A	1653			NEW	PL 694	B2
19A	1555			AFF	PL 694	E2	19A	1654			AFF	PL 694	E2
19A	1555			NEW	PL 694	B2	19A	1654			NEW	PL 694	B2
19A	1556			AFF	PL 694	E2	19A	1655			AFF	PL 694	E2
19A	1556			NEW	PL 694	B2	19A	1655			NEW	PL 694	B2
19A	1557			AFF	PL 694	E2	19A	1656			AFF	PL 694	E2
19A	1557			NEW	PL 694	B2	19A	1656			NEW	PL 694	B2
19A	1558			AFF	PL 694	E2	19A	1657			AFF	PL 694	E2
19A	1558			NEW	PL 694	B2	19A	1657			NEW	PL 694	B2
19A	1559			AFF	PL 694	E2	19A	1701			AFF	PL 694	E2
19A	1559			NEW	PL 694	B2	19A	1701			NEW	PL 694	B2
19A	1560			AFF	PL 694	E2	19A	1702			AFF	PL 694	E2
19A	1560			NEW	PL 694	B2	19A	1702			NEW	PL 694	B2
19A	1561			AFF	PL 694	E2	19A	1703			AFF	PL 694	E2
19A	1561			NEW	PL 694	B2	19A	1703			NEW	PL 694	B2
19A	1562			AFF	PL 694	E2	19A	1704			AFF	PL 694	E2
19A	1562			NEW	PL 694	B2	19A	1704			NEW	PL 694	B2
19A	1563			AFF	PL 694	E2	19A	1705			AFF	PL 694	E2
19A	1563			NEW	PL 694	B2	19A	1705			NEW	PL 694	B2
19A	1564			AFF	PL 694	E2	19A	1706			AFF	PL 694	E2
19A	1564			NEW	PL 694	B2	19A	1706			NEW	PL 694	B2
19A	1565			AFF	PL 694	E2	19A	1707			AFF	PL 694	E2
19A	1565			NEW	PL 694	B2	19A	1707			NEW	PL 694	B2
19A	1566			AFF	PL 694	E2	19A	1708			AFF	PL 694	E2
19A	1566			NEW	PL 694	B2	19A	1708			NEW	PL 694	B2
19A	1567			AFF	PL 694	E2	19A	1709			AFF	PL 694	E2
19A	1567			NEW	PL 694	B2	19A	1709			NEW	PL 694	B2
19A	1568			AFF	PL 694	E2	19A	1710			AFF	PL 694	E2
19A	1568			NEW	PL 694	B2	19A	1710			NEW	PL 694	B2
19A	1569			AFF	PL 694	E2	19A	1711			AFF	PL 694	E2
19A	1569			NEW	PL 694	B2	19A	1711			NEW	PL 694	B2
19A	1570			AFF	PL 694	E2	19A	1712			AFF	PL 694	E2
19A	1570			NEW	PL 694	B2	19A	1712			NEW	PL 694	B2
19A	1601			AFF	PL 694	E2	19A	1713			AFF	PL 694	E2
19A	1601			NEW	PL 694	B2	19A	1713			NEW	PL 694	B2
19A	1602			AFF	PL 694	E2	19A	1714			AFF	PL 694	E2
19A	1602			NEW	PL 694	B2	19A	1714			NEW	PL 694	B2
19A	1603			AFF	PL 694	E2	19A	1715			AFF	PL 694	E2
19A	1603			NEW	PL 694	B2	19A	1715			NEW	PL 694	B2
19A	1604			AFF	PL 694	E2	19A	1716			AFF	PL 694	E2
19A	1604			NEW	PL 694	B2	19A	1716			NEW	PL 694	B2

CROSS REFERENCE TABLE I

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19A	1717			AFF	PL 694	E2	19A	2201			AFF	PL 694	E2
19A	1717			NEW	PL 694	B2	19A	2201			NEW	PL 694	B2
19A	1718			AFF	PL 694	E2	19A	2202			AFF	PL 694	E2
19A	1718			NEW	PL 694	B2	19A	2202			NEW	PL 694	B2
19A	1719			AFF	PL 694	E2	19A	2203			AFF	PL 694	E2
19A	1719			NEW	PL 694	B2	19A	2203			NEW	PL 694	B2
19A	1720			AFF	PL 694	E2	19A	2251			AFF	PL 694	E2
19A	1720			NEW	PL 694	B2	19A	2251			NEW	PL 694	B2
19A	1721			AFF	PL 694	E2	19A	2252			AFF	PL 694	E2
19A	1721			NEW	PL 694	B2	19A	2252			NEW	PL 694	B2
19A	1722			AFF	PL 694	E2	19A	2253			AFF	PL 694	E2
19A	1722			NEW	PL 694	B2	19A	2253			NEW	PL 694	B2
19A	1723			AFF	PL 694	E2	19A	2254			AFF	PL 694	E2
19A	1723			NEW	PL 694	B2	19A	2254			NEW	PL 694	B2
19A	1724			AFF	PL 694	E2	19A	2255			AFF	PL 694	E2
19A	1724			NEW	PL 694	B2	19A	2255			NEW	PL 694	B2
19A	1725			AFF	PL 694	E2	19A	2256			AFF	PL 694	E2
19A	1725			NEW	PL 694	B2	19A	2256			NEW	PL 694	B2
19A	1801			AFF	PL 694	E2	19A	2301			AFF	PL 694	E2
19A	1801			NEW	PL 694	B2	19A	2301			NEW	PL 694	B2
19A	1802			AFF	PL 694	E2	19A	2302			AFF	PL 694	E2
19A	1802			NEW	PL 694	B2	19A	2302			NEW	PL 694	B2
19A	1803			AFF	PL 694	E2	19A	2303			AFF	PL 694	E2
19A	1803			NEW	PL 694	B2	19A	2303			NEW	PL 694	B2
19A	1804			AFF	PL 694	E2	19A	2304			AFF	PL 694	E2
19A	1804			NEW	PL 694	B2	19A	2304			NEW	PL 694	B2
19A	1805			AFF	PL 694	E2	19A	2305			AFF	PL 694	E2
19A	1805			NEW	PL 694	B2	19A	2305			NEW	PL 694	B2
19A	2001			AFF	PL 694	E2	19A	2306			AFF	PL 694	E2
19A	2001			NEW	PL 694	B2	19A	2306			NEW	PL 694	B2
19A	2002			AFF	PL 694	E2	19A	2307			AFF	PL 694	E2
19A	2002			NEW	PL 694	B2	19A	2307			NEW	PL 694	B2
19A	2003			AFF	PL 694	E2	19A	2308			AFF	PL 694	E2
19A	2003			NEW	PL 694	B2	19A	2308			NEW	PL 694	B2
19A	2004			AFF	PL 694	E2	19A	2351			AFF	PL 694	E2
19A	2004			NEW	PL 694	B2	19A	2351			NEW	PL 694	B2
19A	2005			AFF	PL 694	E2	19A	2352			AFF	PL 694	E2
19A	2005			NEW	PL 694	B2	19A	2352			NEW	PL 694	B2
19A	2006			AFF	PL 694	E2	19A	2353			AFF	PL 694	E2
19A	2006			NEW	PL 694	B2	19A	2353			NEW	PL 694	B2
19A	2007			AFF	PL 694	E2	19A	2354			AFF	PL 694	E2
19A	2007			NEW	PL 694	B2	19A	2354			NEW	PL 694	B2
19A	2008			AFF	PL 694	E2	19A	2355			AFF	PL 694	E2
19A	2008			NEW	PL 694	B2	19A	2355			NEW	PL 694	B2
19A	2009			AFF	PL 694	E2	19A	2356			AFF	PL 694	E2
19A	2009			NEW	PL 694	B2	19A	2356			NEW	PL 694	B2
19A	2010			AFF	PL 694	E2	19A	2357			AFF	PL 694	E2
19A	2010			NEW	PL 694	B2	19A	2357			NEW	PL 694	B2
19A	2101			AFF	PL 694	E2	19A	2358			AFF	PL 694	E2
19A	2101			NEW	PL 694	B2	19A	2358			NEW	PL 694	B2
19A	2102			AFF	PL 694	E2	19A	2359			AFF	PL 694	E2
19A	2102			NEW	PL 694	B2	19A	2359			NEW	PL 694	B2
19A	2103			AFF	PL 694	E2	19A	2360			AFF	PL 694	E2
19A	2103			NEW	PL 694	B2	19A	2360			NEW	PL 694	B2
19A	2151			AFF	PL 694	E2	19A	2361			AFF	PL 694	E2
19A	2151			NEW	PL 694	B2	19A	2361			NEW	PL 694	B2
19A	2152			AFF	PL 694	E2	19A	2362			AFF	PL 694	E2
19A	2152			NEW	PL 694	B2	19A	2362			NEW	PL 694	B2
19A	2153			AFF	PL 694	E2	19A	2363			AFF	PL 694	E2
19A	2153			NEW	PL 694	B2	19A	2363			NEW	PL 694	B2
19A	2154			AFF	PL 694	E2	19A	2364			AFF	PL 694	E2
19A	2154			NEW	PL 694	B2	19A	2364			NEW	PL 694	B2
19A	2155			AFF	PL 694	E2	19A	2365			AFF	PL 694	E2
19A	2155			NEW	PL 694	B2	19A	2365			NEW	PL 694	B2
19A	2156			AFF	PL 694	E2	19A	2366			AFF	PL 694	E2
19A	2156			NEW	PL 694	B2	19A	2366			NEW	PL 694	B2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19A	2367			AFF	PL 694	E2	19A	2667			AFF	PL 694	E2
19A	2367			NEW	PL 694	B2	19A	2667			NEW	PL 694	B2
19A	2368			AFF	PL 694	E2	19A	2668			AFF	PL 694	E2
19A	2368			NEW	PL 694	B2	19A	2668			NEW	PL 694	B2
19A	2369			AFF	PL 694	E2	19A	2669			AFF	PL 694	E2
19A	2369			NEW	PL 694	B2	19A	2669			NEW	PL 694	B2
19A	2370			AFF	PL 694	E2	19A	2801			AFF	PL 694	E2
19A	2370			NEW	PL 694	B2	19A	2801			NEW	PL 694	B2
19A	2401			AFF	PL 694	E2	19A	2802			AFF	PL 694	E2
19A	2401			NEW	PL 694	B2	19A	2802			NEW	PL 694	B2
19A	2402			AFF	PL 694	E2	19A	2803			AFF	PL 694	E2
19A	2402			NEW	PL 694	B2	19A	2803			NEW	PL 694	B2
19A	2451			AFF	PL 694	E2	19A	2851			AFF	PL 694	E2
19A	2451			NEW	PL 694	B2	19A	2851			NEW	PL 694	B2
19A	2452			AFF	PL 694	E2	19A	2852			AFF	PL 694	E2
19A	2452			NEW	PL 694	B2	19A	2852			NEW	PL 694	B2
19A	2453			AFF	PL 694	E2	19A	2901			AFF	PL 694	E2
19A	2453			NEW	PL 694	B2	19A	2901			NEW	PL 694	B2
19A	2601			AFF	PL 694	E2	19A	2902			AFF	PL 694	E2
19A	2601			NEW	PL 694	B2	19A	2902			NEW	PL 694	B2
19A	2602			AFF	PL 694	E2	19A	2903			AFF	PL 694	E2
19A	2602			NEW	PL 694	B2	19A	2903			NEW	PL 694	B2
19A	2603			AFF	PL 694	E2	19A	2904			AFF	PL 694	E2
19A	2603			NEW	PL 694	B2	19A	2904			NEW	PL 694	B2
19A	2604			AFF	PL 694	E2	19A	2951			AFF	PL 694	E2
19A	2604			NEW	PL 694	B2	19A	2951			NEW	PL 694	B2
19A	2605			AFF	PL 694	E2	19A	2952			AFF	PL 694	E2
19A	2605			NEW	PL 694	B2	19A	2952			NEW	PL 694	B2
19A	2606			AFF	PL 694	E2	19A	2953			AFF	PL 694	E2
19A	2606			NEW	PL 694	B2	19A	2953			NEW	PL 694	B2
19A	2607			AFF	PL 694	E2	19A	3001			AFF	PL 694	E2
19A	2607			NEW	PL 694	B2	19A	3001			NEW	PL 694	B2
19A	2608			AFF	PL 694	E2	19A	3002			AFF	PL 694	E2
19A	2608			NEW	PL 694	B2	19A	3002			NEW	PL 694	B2
19A	2651			AFF	PL 694	E2	19A	3003			AFF	PL 694	E2
19A	2651			NEW	PL 694	B2	19A	3003			NEW	PL 694	B2
19A	2652			AFF	PL 694	E2	19A	3004			AFF	PL 694	E2
19A	2652			NEW	PL 694	B2	19A	3004			NEW	PL 694	B2
19A	2653			AFF	PL 694	E2	19A	3005			AFF	PL 694	E2
19A	2653			NEW	PL 694	B2	19A	3005			NEW	PL 694	B2
19A	2654			AFF	PL 694	E2	19A	3006			AFF	PL 694	E2
19A	2654			NEW	PL 694	B2	19A	3006			NEW	PL 694	B2
19A	2655			AFF	PL 694	E2	19A	3007			AFF	PL 694	E2
19A	2655			NEW	PL 694	B2	19A	3007			NEW	PL 694	B2
19A	2656			AFF	PL 694	E2	19A	3008			AFF	PL 694	E2
19A	2656			NEW	PL 694	B2	19A	3008			NEW	PL 694	B2
19A	2657			AFF	PL 694	E2	19A	3009			AFF	PL 694	E2
19A	2657			NEW	PL 694	B2	19A	3009			NEW	PL 694	B2
19A	2658			AFF	PL 694	E2	19A	3010			AFF	PL 694	E2
19A	2658			NEW	PL 694	B2	19A	3010			NEW	PL 694	B2
19A	2659			AFF	PL 694	E2	19A	3011			AFF	PL 694	E2
19A	2659			NEW	PL 694	B2	19A	3011			NEW	PL 694	B2
19A	2660			AFF	PL 694	E2	19A	3012			AFF	PL 694	E2
19A	2660			NEW	PL 694	B2	19A	3012			NEW	PL 694	B2
19A	2661			AFF	PL 694	E2	19A	3013			AFF	PL 694	E2
19A	2661			NEW	PL 694	B2	19A	3013			NEW	PL 694	B2
19A	2662			AFF	PL 694	E2	19A	3014			AFF	PL 694	E2
19A	2662			NEW	PL 694	B2	19A	3014			NEW	PL 694	B2
19A	2663			AFF	PL 694	E2	19A	3015			AFF	PL 694	E2
19A	2663			NEW	PL 694	B2	19A	3015			NEW	PL 694	B2
19A	2664			AFF	PL 694	E2	19A	3016			AFF	PL 694	E2
19A	2664			NEW	PL 694	B2	19A	3016			NEW	PL 694	B2
19A	2665			AFF	PL 694	E2	19A	3017			AFF	PL 694	E2
19A	2665			NEW	PL 694	B2	19A	3017			NEW	PL 694	B2
19A	2666			AFF	PL 694	E2	19A	3018			AFF	PL 694	E2
19A	2666			NEW	PL 694	B2	19A	3018			NEW	PL 694	B2

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
19A	3019			AFF	PL 694	E2	19A	4009			AFF	PL 694	E2
19A	3019			NEW	PL 694	B2	19A	4009			NEW	PL 694	B2
19A	3051			AFF	PL 694	E2	19A	4010			AFF	PL 694	E2
19A	3051			NEW	PL 694	B2	19A	4010			NEW	PL 694	B2
19A	3101			AFF	PL 694	E2	19A	4011			AFF	PL 694	E2
19A	3101			NEW	PL 694	B2	19A	4011			NEW	PL 694	B2
19A	3102			AFF	PL 694	E2	19A	4012			AFF	PL 694	E2
19A	3102			NEW	PL 694	B2	19A	4012			NEW	PL 694	B2
19A	3151			AFF	PL 694	E2	19A	4013			AFF	PL 694	E2
19A	3151			NEW	PL 694	B2	19A	4013			NEW	PL 694	B2
19A	3152			AFF	PL 694	E2	19A	4014			AFF	PL 694	E2
19A	3152			NEW	PL 694	B2	19A	4014			NEW	PL 694	B2
19A	3153			AFF	PL 694	E2							
19A	3153			NEW	PL 694	B2							
19A	3201			AFF	PL 694	E2	20A	1	34-A	A	AFF	PL 560	K83
19A	3201			NEW	PL 694	B2	20A	1	34-A	A	AMD	PL 560	K82
19A	3202			AFF	PL 694	E2	20A	1	34-A	B	AFF	PL 560	K83
19A	3202			NEW	PL 694	B2	20A	1	34-A	B	AMD	PL 560	K82
19A	3203			AFF	PL 694	E2	20A	1	34-A		AMD	PL 569	1
19A	3203			NEW	PL 694	B2	20A	202	6		AFF	PL 676	13
19A	3204			AFF	PL 694	E2	20A	202	6		RP	PL 676	3
19A	3204			NEW	PL 694	B2	20A	203	1	G	AMD	PL 560	F9
19A	3251			AFF	PL 694	E2	20A	203	1	H	AMD	PL 560	F9
19A	3251			NEW	PL 694	B2	20A	203	1	I	RP	PL 560	F10
19A	3252			AFF	PL 694	E2	20A	254	8		AMD	PL 625	A21
19A	3252			NEW	PL 694	B2	20A	254	9		AMD	PL 625	A21
19A	3253			AFF	PL 694	E2	20A	256	8		AFF	PL 676	13
19A	3253			NEW	PL 694	B2	20A	256	8		RP	PL 676	4
19A	3254			AFF	PL 694	E2	20A	256	9		AFF	PL 676	13
19A	3254			NEW	PL 694	B2	20A	256	9		AMD	PL 676	4
19A	3301			AFF	PL 694	E2	20A	4502	5	B	AMD	PL 527	1
19A	3301			NEW	PL 694	B2	20A	4502	5	H	AMD	PL 527	2
19A	3351			AFF	PL 694	E2	20A	4502	5-A		AMD	PL 527	3
19A	3351			NEW	PL 694	B2	20A	4504	2		AMD	PL 527	4
19A	3352			AFF	PL 694	E2	20A	4517			AMD	PL 527	5
19A	3352			NEW	PL 694	B2	20A	5001 -A	3	A	AFF	PL 610	2
19A	3401			AFF	PL 694	E2	20A	5021			NEW	PL 610	1
19A	3401			NEW	PL 694	B2	20A	5022			NEW	PL 610	1
19A	3501			AFF	PL 694	E2	20A	5023			NEW	PL 610	1
19A	3501			NEW	PL 694	B2	20A	5024			NEW	PL 610	1
19A	3502			AFF	PL 694	E2	20A	5025			NEW	PL 610	1
19A	3502			NEW	PL 694	B2	20A	5152	3	I	AFF	PL 560	K83
19A	3503			AFF	PL 694	E2	20A	5152	3	I	AMD	PL 560	K82
19A	3503			NEW	PL 694	B2	20A	6101	1	E	AMD	PL 547	2
19A	3504			AFF	PL 694	E2	20A	6101	1	F	AMD	PL 547	2
19A	3504			NEW	PL 694	B2	20A	6101	1	G	NEW	PL 547	3
19A	3505			AFF	PL 694	E2	20A	6101	2	B	AMD	PL 547	4
19A	3505			NEW	PL 694	B2	20A	6103			NEW	PL 547	5
19A	3506			AFF	PL 694	E2	20A	6208			NEW	PL 649	1
19A	3506			NEW	PL 694	B2	20A	6209			NEW	PL 649	1
19A	4001			AFF	PL 694	E2	20A	7401			AFF	PL 676	13
19A	4001			NEW	PL 694	B2	20A	7401			NEW	PL 676	5
19A	4002			AFF	PL 694	E2	20A	7402			AFF	PL 676	13
19A	4002			NEW	PL 694	B2	20A	7402			NEW	PL 676	5
19A	4003			AFF	PL 694	E2	20A	7403			AFF	PL 676	13
19A	4003			NEW	PL 694	B2	20A	7403			NEW	PL 676	5
19A	4004			AFF	PL 694	E2	20A	7404			AFF	PL 676	13
19A	4004			NEW	PL 694	B2	20A	7404			NEW	PL 676	5
19A	4005			AFF	PL 694	E2	20A	7405			AFF	PL 676	13
19A	4005			NEW	PL 694	B2	20A	7405			NEW	PL 676	5
19A	4006			AFF	PL 694	E2	20A	7406			NEW	PL 676	5
19A	4006			NEW	PL 694	B2	20A	7407			AFF	PL 676	13
19A	4007			AFF	PL 694	E2	20A	7407			NEW	PL 676	5
19A	4007			NEW	PL 694	B2	20A	7408			AFF	PL 676	13
19A	4008			AFF	PL 694	E2	20A	7408			NEW	PL 676	5
19A	4008			NEW	PL 694	B2	20A	7409			AFF	PL 676	13

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	SEC OF LAW
20A	7409			NEW	PL 676	5	20A	18004			RP	PL 560	F11
20A	7410			AFF	PL 676	13	20A	18005			RP	PL 560	F11
20A	7410			NEW	PL 676	5	20A	18006			RP	PL 560	F11
20A	7503			AFF	PL 676	13	20A	18007			RP	PL 560	F11
20A	7503			RP	PL 676	6	20A	18008			RP	PL 560	F11
20A	7725	3		AFF	PL 560	K83	20A	18009			RP	PL 560	F11
20A	7725	3		AMD	PL 560	K82	20A	18010			RP	PL 560	F11
20A	7727	2		AMD	PL 662	1	20A	18011			RP	PL 560	F11
20A	7730			AFF	PL 560	K83	20A	18012			RP	PL 560	F11
20A	7730			AMD	PL 560	K82	20A	18013			RP	PL 560	F11
20A	7730			AMD	PL 662	2	20A	18014			RP	PL 560	F11
20A	7730-A			NEW	PL 662	3	20A	18015			RP	PL 560	F11
20A	7731	2		AMD	PL 662	4	20A	18016			RP	PL 560	F11
20A	7732-A	8		AMD	PL 662	5	20A	18017			RP	PL 560	F11
20A	7732-A	9		AMD	PL 662	5	20A	18021			RP	PL 560	F11
20A	7732-A	10		NEW	PL 662	6	20A	18022			RP	PL 560	F11
20A	7733			AMD	PL 662	7	20A	18023			RP	PL 560	F11
20A	7801	1		AFF	PL 560	K83	20A	18024			RP	PL 560	F11
20A	7801	1		AMD	PL 560	K82	20A	18025			RP	PL 560	F11
20A	7803			AFF	PL 560	K83	20A	18026			RP	PL 560	F11
20A	7803			AMD	PL 560	K82	20A	18031			RP	PL 560	F11
20A	7803-A			AFF	PL 560	K83	20A	18032			RP	PL 560	F11
20A	7803-A			AMD	PL 560	K82	20A	18041			RP	PL 560	F11
20A	7804	4		AFF	PL 560	K83	20A	18042			RP	PL 560	F11
20A	7804	4		AMD	PL 560	K82	20A	18043			RP	PL 560	F11
20A	8104	1		AMD	PL 527	6	20A	18044			RP	PL 560	F11
20A	8202	2		AMD	PL 665	FF1	20A	18045			RP	PL 560	F11
20A	8202	4		NEW	PL 665	FF2	20A	18051			RP	PL 560	F11
20A	8205	16		RPR	PL 625	A22	20A	18052			RP	PL 560	F11
20A	8605	2	B	AMD	PL 665	J1	20A	18053			RP	PL 560	F11
20A	8702			AFF	PL 505	22	20A	18065			RP	PL 560	F11
20A	8702			RPR	PL 505	5	20A	18070			RP	PL 560	F11
20A	8703			AFF	PL 505	22	20A	18071			RP	PL 560	F11
20A	8703			AMD	PL 505	6	20A	18072			RP	PL 560	F11
20A	8705			AFF	PL 505	22	20A	18073			RP	PL 560	F11
20A	8705			AMD	PL 505	7	20A	18074			RP	PL 560	F11
20A	8706			AFF	PL 505	22	20A	18075			RP	PL 560	F11
20A	8706			AMD	PL 505	8	20A	18076			RP	PL 560	F11
20A	9501	2		AFF	PL 505	22	20A	18077			RP	PL 560	F11
20A	9501	2		AMD	PL 505	9	20A	18078			RP	PL 560	F11
20A	9801	2	H	AMD	PL 648	8	20A	18079			RP	PL 560	F11
20A	9802	5		AMD	PL 648	8	20A	18080			RP	PL 560	F11
20A	11415	1		AMD	PL 519	6	20A	18081			RP	PL 560	F11
20A	12704	2	D	AFF	PL 560	G29	20A	18081			RPR	PL 563	1
20A	12704	2	D	AMD	PL 560	G5	20A	18082			RP	PL 560	F11
20A	12705	1		AMD	PL 688	11	20A	18083			RP	PL 560	F11
20A	12705	7		AMD	PL 688	12	20A	18091			RP	PL 560	F11
20A	12709	11		AFF	PL 560	G29	20A	18092			RP	PL 560	F11
20A	12709	11		AMD	PL 560	G6	20A	18101			RP	PL 560	F11
20A	12727	2		AFF	PL 560	G29	20A	18102			RP	PL 560	F11
20A	12727	2		AMD	PL 560	G7	20A	18103			RP	PL 560	F11
20A	12731			AMD	PL 515	2	20A	18104			RP	PL 560	F11
20A	12734	4		AMD	PL 515	3	20A	18111			RP	PL 560	F11
20A	13402	3		AFF	PL 676	13	20A	18112			RP	PL 560	F11
20A	13402	3		AMD	PL 676	7	20A	18113			RP	PL 560	F11
20A	13502	1	C	AFF	PL 676	13							
20A	13502	1	C	AMD	PL 676	8							
20A	15603	23		AFF	PL 560	K83	21A	122	3		COR	RR	1 8
20A	15603	23		AMD	PL 560	K82	21A	629	4		COR	RR	1 9
20A	15603	26-A	F	AMD	PL 665	J2	21A	738			AFF	PL 506	3
20A	15905	1	A	AMD	PL 632	1	21A	738			AMD	PL 506	1
20A	15905	6		NEW	PL 632	2	21A	751	7		AFF	PL 670	D5
20A	15917			NEW	PL 632	3	21A	751	7		AMD	PL 670	A1
20A	18001			RP	PL 560	F11	21A	753	3-A		AFF	PL 670	D5
20A	18002			RP	PL 560	F11	21A	753	3-A		AMD	PL 670	A2
20A	18003			RP	PL 560	F11	21A	1020-A	2		COR	RR	1 10

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21A	1020-A	7		COR	RR 1	10	22	386			AFF	PL 653	B8
							22	386			RP	PL 653	B4
							22	387			AFF	PL 653	B8
22	1			AMD	PL 560	J2	22	387			RP	PL 653	B4
22	3-D			NEW	PL 598	A1	22	388			AFF	PL 653	B8
22	6-A			RPR	PL 502	D1	22	388			RP	PL 653	B4
22	6-B			AFF	PL 560	K83	22	389			AFF	PL 653	B8
22	6-B			AMD	PL 560	K82	22	389			RP	PL 653	B4
22	6-B	2	B	AFF	PL 560	K83	22	390			AFF	PL 653	B8
22	6-B	2	B	AMD	PL 560	K82	22	390			RP	PL 653	B4
22	6-C			AFF	PL 665	CC2	22	391			AFF	PL 653	B8
22	6-C			NEW	PL 665	CC1	22	391			RP	PL 653	B4
22	12			AFF	PL 694	E2	22	392			AFF	PL 653	B8
22	12			AMD	PL 694	D27	22	392			RP	PL 653	B4
22	12-A	4	A	AMD	PL 691	2	22	394			AFF	PL 653	B8
22	12-A	4	B	AMD	PL 691	2	22	394			RP	PL 653	B4
22	21			NEW	PL 675	1	22	395			AFF	PL 653	B8
22	22			NEW	PL 675	1	22	395			RP	PL 653	B4
22	253			AFF	PL 653	C3	22	395-A			AFF	PL 653	B8
22	253			RPR	PL 653	C1	22	395-A			RP	PL 653	B4
22	257			AFF	PL 653	C3	22	395-B			AFF	PL 653	B8
22	257			NEW	PL 653	C2	22	395-B			RP	PL 653	B4
22	303	5		AMD	PL 696	A1	22	395-B	1		AMD	PL 596	1
22	303	7		AMD	PL 696	A2	22	396			AFF	PL 653	B8
22	303	11-A		RP	PL 696	A3	22	396			RP	PL 653	B4
22	303	11-C		NEW	PL 696	A4	22	396-A			AFF	PL 653	B8
22	303	12		RP	PL 696	A5	22	396-A			RP	PL 653	B4
22	303	12-B		NEW	PL 696	A6	22	396-B			AFF	PL 653	B8
22	303	19		RP	PL 696	A7	22	396-B			RP	PL 653	B4
22	303	20		RP	PL 696	A7	22	396-C			AFF	PL 653	B8
22	303	21		RP	PL 696	A8	22	396-C			RP	PL 653	B4
22	304-A	3		AMD	PL 696	A9	22	396-D			AFF	PL 653	B8
22	304-A	3-A		AMD	PL 696	A10	22	396-D			RP	PL 653	B4
22	304-A	4		AMD	PL 696	A11	22	396-E			AFF	PL 653	B8
22	304-A	5		AMD	PL 696	A12	22	396-E			RP	PL 653	B4
22	304-A	6		AMD	PL 696	A13	22	396-F			AFF	PL 653	B8
22	304-A	8		AMD	PL 696	A14	22	396-F			RP	PL 653	B4
22	304-D			AMD	PL 696	A15	22	396-G			AFF	PL 653	B8
22	304-D	2		RP	PL 696	A16	22	396-G			RP	PL 653	B4
22	304-D	5		RP	PL 696	A16	22	396-H			AFF	PL 653	B8
22	304-F			NEW	PL 696	A17	22	396-H			RP	PL 653	B4
22	306-A	6		AMD	PL 696	A18	22	396-I			AFF	PL 653	B8
22	306-A	7		NEW	PL 696	A19	22	396-I			RP	PL 653	B4
22	306-A	8		NEW	PL 696	A19	22	396-J			AFF	PL 653	B8
22	307	2-A	A	AMD	PL 696	A20	22	396-J			RP	PL 653	B4
22	307	2-B	D	AMD	PL 696	A21	22	396-K			AFF	PL 653	B8
22	307	2-B	H	AMD	PL 696	A22	22	396-K			RP	PL 653	B4
22	307	5-A	B	AMD	PL 696	A23	22	396-L			AFF	PL 653	B8
22	307	6-A		AMD	PL 696	A24	22	396-L			RP	PL 653	B4
22	309	1	D	AMD	PL 696	A25	22	396-M			AFF	PL 653	B8
22	309	2		RP	PL 696	A26	22	396-M			RP	PL 653	B4
22	309	2-A		NEW	PL 696	A27	22	396-N			AFF	PL 653	B8
22	309	3		RP	PL 696	A28	22	396-N			RP	PL 653	B4
22	309	6		AMD	PL 696	A29	22	396-O			AFF	PL 653	B8
22	309	7		RP	PL 696	A30	22	396-O			RP	PL 653	B4
22	324			RPR	PL 696	A31	22	396-P			AFF	PL 653	B8
22	381			AFF	PL 653	B8	22	396-P			RP	PL 653	B4
22	381			RP	PL 653	B4	22	396-Q			AFF	PL 653	B8
22	382			AFF	PL 653	B8	22	396-Q			RP	PL 653	B4
22	382			RP	PL 653	B4	22	396-R			AFF	PL 653	B8
22	383			AFF	PL 653	B8	22	396-R			RP	PL 653	B4
22	383			RP	PL 653	B4	22	396-S			AFF	PL 653	B8
22	384			AFF	PL 653	B8	22	396-S			RP	PL 653	B4
22	384			RP	PL 653	B4	22	397			AFF	PL 653	B8
22	385			AFF	PL 653	B8	22	397			RP	PL 653	B4

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22	398			AFF	PL 653	B8	22	1889			NEW	PL 583	15
22	398			RP	PL 653	B4	22	1961			AMD	PL 502	D2
22	399			AFF	PL 653	B8	22	1962			AMD	PL 502	D3
22	399			RP	PL 653	B4	22	1963			AMD	PL 502	D4
22	676	5		AMD	PL 502	E32	22	2053	2-C		AFF	PL 670	D5
22	679-B	8		AMD	PL 502	E32	22	2053	2-C		RP	PL 670	C1
22	812	1	G	AFF	PL 560	K83	22	2053	3-A		AFF	PL 670	D5
22	812	1	G	AMD	PL 560	K82	22	2053	3-A		AMD	PL 670	C2
22	1324-A	3		AMD	PL 572	1	22	2053	5		AFF	PL 670	D5
22	1324-A	4		AMD	PL 572	1	22	2053	5		AMD	PL 670	C3
22	1501			AFF	PL 694	E2	22	2094			RP	PL 502	D5
22	1501			NEW	PL 694	C8	22	2095			RP	PL 502	D6
22	1502			AFF	PL 694	E2	22	2144	4	D	NEW	PL 620	1
22	1502			NEW	PL 694	C8	22	2146			AMD	PL 620	2
22	1503			AFF	PL 694	E2	22	2150-B			NEW	PL 620	3
22	1503			NEW	PL 694	C8	22	2383-B	4		RP	PL 621	3
22	1504			AFF	PL 694	E2	22	2613	1		AMD	PL 622	1
22	1504			NEW	PL 694	C8	22	2613	2		AMD	PL 622	2
22	1505			AFF	PL 694	E2	22	2613	4		NEW	PL 622	3
22	1505			NEW	PL 694	C8	22	2614	3		NEW	PL 622	4
22	1506			AFF	PL 694	E2	22	2615	1		RPR	PL 622	5
22	1506			NEW	PL 694	C8	22	2615	3		NEW	PL 622	6
22	1553	4	A	AMD	PL 593	1	22	2615	4		NEW	PL 622	6
22	1553	4	A1	NEW	PL 593	2	22	2615	5		NEW	PL 622	6
22	1555	1	B	AMD	PL 593	3	22	2642	1		AMD	PL 664	1
22	1556-A	2		RPR	PL 593	4	22	2648			AMD	PL 502	E30
22	1556-A	3		RP	PL 593	5	22	2660-C	1	A	AMD	PL 581	1
22	1557	3		NEW	PL 593	6	22	2660-C	4	A	AMD	PL 581	2
22	1708	3	B	AMD	PL 696	A32	22	2660-C	4	E	AMD	PL 581	2
22	1708	3	C	AMD	PL 696	A32	22	2660-C	4	F	AMD	PL 581	2
22	1708	3	D	NEW	PL 696	A33	22	2660-C	4	G	RP	PL 581	3
22	1711-B	4		AFF	PL 694	E2	22	2660-E	1		AMD	PL 581	4
22	1711-B	4		AMD	PL 694	D28	22	2660-E	2		AMD	PL 581	4
22	1715	1		AFF	PL 653	B8	22	2701	2		AFF	PL 694	E2
22	1715	1		AMD	PL 653	B5	22	2701	2		RPR	PL 694	D29
22	1715	1		AMD	PL 696	A34	22	2765	1	A	AFF	PL 694	E2
22	1715	2	A	AFF	PL 653	B8	22	2765	1	A	AMD	PL 694	D30
22	1715	2	A	AMD	PL 653	B6	22	2765	1-A	A	AFF	PL 694	E2
22	1715	2	B	AFF	PL 653	B8	22	2765	1-A	A	AMD	PL 694	D31
22	1715	2	B	AMD	PL 653	B6	22	2801			AFF	PL 694	E2
22	1715	2	A	AMD	PL 696	A35	22	2801			RP	PL 694	D32
22	1715	2	B	AMD	PL 696	A35	22	2802			AFF	PL 694	E2
22	1716			AFF	PL 653	B8	22	2802			RP	PL 694	D33
22	1716			NEW	PL 653	B7	22	2883			AFF	PL 560	K83
22	1716			NEW	PL 696	A36	22	2883			AMD	PL 560	K82
22	1812-C	6-A		AFF	PL 670	D5	22	2906	4		RP	PL 625	A23
22	1812-C	6-A		NEW	PL 670	B1	22	3025	1	E	AFF	PL 560	K83
22	1812-G	3		AFF	PL 670	D5	22	3025	1	E	AMD	PL 560	K82
22	1812-G	3		AMD	PL 670	B2	22	3108			NEW	PL 629	1
22	1882	1		AMD	PL 583	1	22	3172-B	1		AFF	PL 560	K83
22	1882	2-A		NEW	PL 583	2	22	3172-B	1		AMD	PL 560	K82
22	1883	2-A		NEW	PL 583	3	22	3174-D			AFF	PL 676	13
22	1883	3		RPR	PL 583	4	22	3174-D			AMD	PL 676	9
22	1883	4	A	AMD	PL 583	5	22	3174-I	1	B2	NEW	PL 687	1
22	1883	4	B	AMD	PL 583	5	22	3174-I	1	E	AMD	PL 696	B1
22	1883	4	C	NEW	PL 583	6	22	3174-P			AFF	PL 665	EE3
22	1883	6		AMD	PL 583	7	22	3174-P			NEW	PL 665	EE1
22	1885	1		AMD	PL 583	8	22	3174-Q			NEW	PL 696	B2
22	1885	2		AMD	PL 583	9	22	3189	3	B	AFF	PL 560	K83
22	1885	3		AMD	PL 583	9	22	3189	3	B	AMD	PL 560	K82
22	1885	5	B	AMD	PL 583	10	22	3189	4		RP	PL 696	A37
22	1885	5-A		NEW	PL 583	11	22	3472	5		AFF	PL 560	K83
22	1885	7		AMD	PL 583	12	22	3472	5		AMD	PL 560	K82
22	1886	1		AMD	PL 583	13	22	3472	5		AMD	PL 696	A38
22	1886	2		AMD	PL 583	13	22	3477	1		AMD	PL 696	B3
22	1886	4		RP	PL 583	14	22	3480	3		NEW	PL 696	B4

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22	3571	2		AMD	PL 560	K82	22	5153			RP	PL 670	A3
22	3573			AFF	PL 560	K83	22	5154			AFF	PL 670	D5
22	3573			AMD	PL 560	K82	22	5154			RP	PL 670	A3
22	3731	3		AMD	PL 502	D7	22	5155			AFF	PL 670	D5
22	3739	2	B	AMD	PL 502	D8	22	5155			RP	PL 670	A3
22	3741 -E	1		COR	RR 1	11	22	5306			AFF	PL 560	K83
22	3741 -G			AMD	PL 692	1	22	5306			AMD	PL 560	K82
22	3754			AFF	PL 694	E2	22	5312			AMD	PL 502	D10
22	3754			AMD	PL 694	D34	22	5321			RP	PL 502	D11
22	3755 -A	1	B	AFF	PL 694	E2	22	5321	1		AMD	PL 502	D12
22	3755 -A	1	B	AMD	PL 694	D35	22	5321	3		NEW	PL 502	D13
22	3755 -A	1	C	AFF	PL 694	E2	22	5322	3-A		AMD	PL 502	D14
22	3755 -A	1	C	AMD	PL 694	D35	22	5323			AMD	PL 502	D14
22	3755 -A	1	E	AFF	PL 694	E2	22	5324			AMD	PL 502	D14
22	3755 -A	1	E	AMD	PL 694	D35	22	5327			AMD	PL 502	D14
22	3755 -A	1	F	AFF	PL 694	E2	22	5328			AMD	PL 502	D14
22	3755 -A	1	F	AMD	PL 694	D35	22	5329			AMD	PL 502	D14
22	3760 -D			AFF	PL 625	C2	22	7801	1	A1	AFF	PL 670	D5
22	3760 -D			REN	PL 625	C1	22	7801	1	A1	NEW	PL 670	B5
22	3940			AMD	PL 502	D9	22	7802	1	E	AFF	PL 670	D5
22	4004 -A	3		AFF	PL 560	K83	22	7802	1	E	AMD	PL 670	B6
22	4004 -A	3		AMD	PL 560	K82	22	7901 -A			AFF	PL 670	D5
22	4005 -B	6		AFF	PL 694	E2	22	7901 -A			RP	PL 670	A5
22	4005 -B	6		AMD	PL 694	D36	22	7901 -B			AFF	PL 670	D5
22	4007	6		AFF	PL 694	E2	22	7901 -B			NEW	PL 670	A6
22	4007	6		AMD	PL 694	D37	22	7901 -C			AFF	PL 670	D5
22	4008	3	B	AFF	PL 694	E2	22	7901 -C			NEW	PL 670	A6
22	4008	3	B	AMD	PL 694	D38	22	7902			AFF	PL 670	D5
22	4008	3	G	AFF	PL 694	E2	22	7902			RP	PL 670	A7
22	4008	3	G	AMD	PL 694	D39	22	7902 -A			AFF	PL 670	D5
22	4010 -A	1		AFF	PL 560	K83	22	7902 -A			NEW	PL 670	A8
22	4010 -A	1		AMD	PL 560	K82	22	7903			AFF	PL 670	D5
22	4031	1	D	AFF	PL 694	E2	22	7903			RPR	PL 670	A9
22	4031	1	D	AMD	PL 694	D40	22	7904 -A			AFF	PL 670	D5
22	4031	3		AFF	PL 694	E2	22	7904 -A			AMD	PL 670	A10
22	4031	3		AMD	PL 694	D41	22	7904 -B			AFF	PL 670	D5
22	4036	1	G	AFF	PL 694	E2	22	7904 -B			NEW	PL 670	A11
22	4036	1	G	AMD	PL 694	D42	22	7909			AFF	PL 560	K83
22	4036	1	I	AFF	PL 694	E2	22	7909			AMD	PL 560	K82
22	4036	1	I	AMD	PL 694	D43	22	7914			AFF	PL 670	D5
22	4037			AFF	PL 694	E2	22	7914			NEW	PL 670	A12
22	4037			AMD	PL 694	D44	22	7915			AFF	PL 670	D5
22	4038 -A			AFF	PL 694	E2	22	7915			NEW	PL 670	A12
22	4038 -A			AMD	PL 694	D45	22	7922	1		AFF	PL 670	D5
22	4041	1		AFF	PL 694	E2	22	7922	1		AMD	PL 670	B7
22	4041	1		AMD	PL 694	D46	22	7931			AMD	PL 620	4
22	4052	2		AFF	PL 694	E2	22	7932	1-A		NEW	PL 620	5
22	4052	2		AMD	PL 694	D47	22	7932	3-A		NEW	PL 620	5
22	4055	1	A	AFF	PL 694	E2	22	7933	1		AMD	PL 620	6
22	4055	1	A	AMD	PL 694	D48	22	7934			AMD	PL 620	7
22	4088	1	D	AFF	PL 560	K83	22	7935			AMD	PL 620	8
22	4088	1	D	AMD	PL 560	K82	22	7937			AMD	PL 620	8
22	4088	3	H	AFF	PL 560	K83	22	8601	2		AFF	PL 560	K83
22	4088	3	H	AMD	PL 560	K82	22	8601	2		AMD	PL 560	K82
22	4171	1	A	AFF	PL 694	E2	22	8701			AFF	PL 653	A7
22	4171	1	A	AMD	PL 694	D49	22	8701			NEW	PL 653	A2
22	4311	1-A		AMD	PL 696	A39	22	8702			AFF	PL 653	A7
22	4313	1		AMD	PL 696	A40	22	8702			NEW	PL 653	A2
22	5107 -A			AFF	PL 670	D5	22	8703			AFF	PL 653	A7
22	5107 -A			AMD	PL 670	B3,4	22	8703			NEW	PL 653	A2
22	5107 -B			NEW	PL 696	B5	22	8704			AFF	PL 653	A7
22	5151			AFF	PL 670	D5	22	8704			NEW	PL 653	A2
22	5151			RP	PL 670	A3	22	8705			AFF	PL 653	A7
22	5152			AFF	PL 670	D5	22	8705			NEW	PL 653	A2
22	5152			RP	PL 670	A3	22	8706			AFF	PL 653	A7

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22	8706			NEW	PL 653	A2	24A	206			AMD	PL 502	H16
22	8707			AFF	PL 653	A7	24A	207			RPR	PL 502	H17
22	8707			NEW	PL 653	A2	24A	237	4		AMD	PL 544	1
22	8708			AFF	PL 653	A7	24A	237	5		AMD	PL 544	1
22	8708			NEW	PL 653	A2	24A	237	6		AMD	PL 544	2
22	8709			AFF	PL 653	A7	24A	413	5-A		AMD	PL 570	1
22	8709			NEW	PL 653	A2	24A	415	1		AMD	PL 544	3
22	8710			AFF	PL 653	A7	24A	415	2		RP	PL 544	4
22	8710			NEW	PL 653	A2	24A	419	1		AMD	PL 570	2
22	8711			AFF	PL 653	A7	24A	423	4		AMD	PL 544	5
22	8711			NEW	PL 653	A2	24A	601	1	B	AMD	PL 544	6
							24A	601	16	A1	NEW	PL 594	1
							24A	601	24		NEW	PL 618	1
							24A	707	3		AMD	PL 673	B2
							24A	742			AMD	PL 544	7
							24A	743			AMD	PL 544	8
							24A	1518	1-A		NEW	PL 570	3
							24A	1519	2		RPR	PL 625	A24
							24A	1521	1		AMD	PL 570	4
							24A	1532-A	7		AMD	PL 570	5
							24A	1533	1		AMD	PL 570	6
							24A	1535	1	A	AFF	PL 694	E2
							24A	1535	1	A	AMD	PL 694	D50
							24A	1901	1	M	AMD	PL 673	A1
							24A	1901	1	N	AMD	PL 673	A1
							24A	1901	1	O	NEW	PL 673	A2
							24A	1951			NEW	PL 673	A3
							24A	1952			NEW	PL 673	A3
							24A	1953			NEW	PL 673	A3
							24A	1954			NEW	PL 673	A3
							24A	1955			NEW	PL 673	A3
							24A	1956			NEW	PL 673	A3
							24A	1957			NEW	PL 673	A3
							24A	2159-B			NEW	PL 553	1
							24A	2164-B			RP	PL 522	1
							24A	2385-A	2		AMD	PL 551	1
							24A	2385-A	3		RP	PL 551	2
							24A	2386	7		AMD	PL 560	G8
							24A	2392	22-A		AFF	PL 619	8
							24A	2392	22-A		NEW	PL 619	1
							24A	2392	22-B		AFF	PL 619	8
							24A	2392	22-B		NEW	PL 619	1
							24A	2393	2	D	AFF	PL 619	8
							24A	2393	2	D	AMD	PL 619	2-6
							24A	2612-A	2-A		NEW	PL 618	2
							24A	2736-C	9		NEW	PL 570	7
							24A	2743-A			NEW	PL 615	2
							24A	2744	3		NEW	PL 561	2
							24A	2745-B			AMD	PL 671	9
							24A	2745-C			COR	RR 1	15
							24A	2745-D			NEW	PL 369	2
							24A	2745-D			RNU	RR 1	15
							24A	2749-C	1	A	AMD	PL 637	3
							24A	2754			NEW	PL 592	2
							24A	2804-A			NEW	PL 673	A4
							24A	2808	2-A		NEW	PL 618	3
							24A	2808-B	1	H	AMD	PL 673	A5
							24A	2808-B	2	F	NEW	PL 673	A6
							24A	2809-A	1-A		RPR	PL 625	A25
							24A	2834-A			NEW	PL 615	3
							24A	2835	3		NEW	PL 561	3
							24A	2837-B			AMD	PL 671	10
							24A	2837-C			COR	RR 1	17
							24A	2837-D			NEW	PL 369	3
							24A	2837-D			RNU	RR 1	17
							24A	2837-E			AFF	PL 617	6
23	708	1		COR	RR 1	12							
23	1802-A	1		AFF	PL 678	7							
23	1802-A	1		AMD	PL 678	1							
23	1802-A	2		AFF	PL 678	7							
23	1802-A	2		NEW	PL 678	2							
23	1803-B	1		AFF	PL 678	7							
23	1803-B	1		AMD	PL 678	3							
23	1912-B			AMD	PL 663	1							
23	1961	2		AMD	PL 504	C1							
23	1961	6		AFF	PL 613	7							
23	1961	6		AMD	PL 613	1							
23	1964	4-A		NEW	PL 504	C2							
23	1964	6-A		AMD	PL 504	C3							
23	1964	6-A		AFF	PL 613	7							
23	1964	6-A		AMD	PL 613	2							
23	1965	1	O1	NEW	PL 504	C4							
23	1965	1	O2	NEW	PL 504	C4							
23	1965-A	1	A	AMD	PL 613	3							
23	1968	2-A		NEW	PL 504	C5							
23	1969	1	A	AMD	PL 504	C6							
23	1974	6		NEW	PL 504	C7							
23	4206	1	M	AMD	PL 504	C8							
23	4206	1	N	NEW	PL 504	C9							
23	4206	2	B	RP	PL 504	B7							
23	4208			AFF	PL 505	22							
23	4208			AMD	PL 505	10							
23	7103	3		AMD	PL 504	B8							
23	8005	2		AMD	PL 543	2							
23	8112	2		AMD	PL 543	3							
24	2303	5		NEW	PL 561	1							
24	2318-A			NEW	PL 615	1							
24	2320-B			AMD	PL 671	8							
24	2320-C			COR	RR 1	13							
24	2320-D			NEW	PL 369	1							
24	2320-D			RNU	RR 1	13							
24	2320-E			AFF	PL 617	6							
24	2320-E			NEW	PL 617	1							
24	2325-A	3	E	AFF	PL 560	K83							
24	2325-A	3	E	AMD	PL 560	K82							
24	2325-A	5-C	B	AFF	PL 625	B7							
24	2325-A	5-C	B	RPR	PL 625	B6							
24	2325-A	5-C	A	AMD	PL 637	1							
24	2325-A	5-D	A	AMD	PL 637	2							
24	2332-F			NEW	PL 592	1							
24	2332-F			AFF	PL 617	6							
24	2332-F			NEW	PL 617	2							
24	2349	2	B	RPR	PL 673	B1							
24	2853	4		AMD	PL 571	1							
24	2904			RPR	PL 625	C3							
24A	205			RPR	PL 502	H15							

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24A	2837 -E			NEW	PL 617	3	24A	5014			NEW	PL 570	9
24A	2843	3	E	AFF	PL 560	K83	24A	6099	3		AMD	PL 540	1
24A	2843	3	E	AMD	PL 560	K82	24A	6203	1	B	AMD	PL 625	A27
24A	2843	5-C	B	AFF	PL 625	B9	24A	6215			RP	PL 625	A28
24A	2843	5-C	B	RPR	PL 625	B8	24A	6215 -A			NEW	PL 625	A29
24A	2843	5-C	A	AMD	PL 637	4	24A	6305	2		AMD	PL 570	10
24A	2843	5-D	A	AMD	PL 637	5	24A	6601	5		AMD	PL 618	5
24A	2847 -E			NEW	PL 592	3	24A	6603			AMD	PL 618	6
24A	2849 -B	1		RPR	PL 625	B10	24A	6603 -A			NEW	PL 618	7
24A	2849 -B	2	B	RPR	PL 673	B3	24A	6604	7		AMD	PL 618	8
24A	2850 -A			AFF	PL 617	6	24A	6604	8		AMD	PL 618	8
24A	2850 -A			NEW	PL 617	4	24A	6604	9		NEW	PL 618	9
24A	2884			AMD	PL 618	4	24A	6606	1		AMD	PL 618	10
24A	2916 -C			NEW	PL 544	9	24A	6607			AMD	PL 618	11
24A	3055 -A			NEW	PL 544	10	24A	6610			AMD	PL 618	12
24A	3702	3-A		NEW	PL 551	3	24A	6611	1-A		NEW	PL 618	13
24A	3703	1		AMD	PL 551	4	24A	6616			AMD	PL 618	14
24A	3710	2	A	AMD	PL 551	5							
24A	3710	2	B	AMD	PL 551	5	25	1501			AFF	PL 560	C4
24A	3710	2	C	NEW	PL 551	6	25	1501			AMD	PL 560	C3
24A	3712	3	E	AMD	PL 560	G9	25	2003	1	E	AFF	PL 560	K83
24A	4202 -A	10	A	AMD	PL 673	D1	25	2003	1	E	AMD	PL 560	K82
24A	4203	3	L	AMD	PL 673	D2	25	2003	4	A	AFF	PL 694	E2
24A	4204	2-A	L	RPR	PL 673	D3	25	2003	4	A	AMD	PL 694	D51
24A	4209	1	B	AMD	PL 673	D4	25	2003	5		AFF	PL 694	E2
24A	4209	1	C	RP	PL 673	D5	25	2003	5		AMD	PL 694	D52
24A	4209	1	D	RP	PL 673	D5	25	2801 -B	1	B	AMD	PL 502	E30
24A	4209	1	E	NEW	PL 673	D6	25	2927	1-A		NEW	PL 672	1
24A	4222	4		RP	PL 625	A26	25	2927	2-A		NEW	PL 672	2
24A	4222 -B	9		NEW	PL 673	D7	25	2927	5-A		NEW	PL 672	3
24A	4234 -A	3	E	AFF	PL 560	K83	25	2927	7-A		NEW	PL 672	4
24A	4234 -A	3	E	AMD	PL 560	K82	25	2928	2		NEW	PL 672	5
24A	4234 -A	6	A	AMD	PL 637	6	25	3504			AMD	PL 625	A30
24A	4234 -A	7	A	AMD	PL 637	7							
24A	4234 -A	11		AMD	PL 673	D8							
24A	4234 -B			NEW	PL 615	4							
24A	4237			COR	RR 1	19	26	41			AFF	PL 560	H17
24A	4237			COR	RR 1	21	26	41			AMD	PL 560	H7
24A	4238			NEW	PL 369	4	26	141			AFF	PL 560	H17
24A	4238			RNU	RR 1	19	26	141			RP	PL 560	H8
24A	4239			NEW	PL 418	C4	26	142			AFF	PL 560	H17
24A	4239			RNU	RR 1	21	26	142			RP	PL 560	H8
24A	4240			NEW	PL 592	4	26	143			AFF	PL 560	H17
24A	4240			AFF	PL 617	6	26	143			RP	PL 560	H8
24A	4240			NEW	PL 617	5	26	171			AFF	PL 560	H17
24A	4241			AFF	PL 617	6	26	171			RP	PL 560	H8
24A	4241			NEW	PL 617	5	26	172			AFF	PL 560	H17
24A	4301			AFF	PL 673	C2	26	172			RP	PL 560	H8
24A	4301			NEW	PL 673	C1	26	173			AFF	PL 560	H17
24A	4302			AFF	PL 673	C2	26	173			RP	PL 560	H8
24A	4302			NEW	PL 673	C1	26	174			AFF	PL 560	H17
24A	4303			AFF	PL 673	C2	26	174			RP	PL 560	H8
24A	4303			NEW	PL 673	C1	26	175			AFF	PL 560	H17
24A	4304			AFF	PL 673	C2	26	175			RP	PL 560	H8
24A	4304			NEW	PL 673	C1	26	176			AFF	PL 560	H17
24A	4305			AFF	PL 673	C2	26	176			RP	PL 560	H8
24A	4305			NEW	PL 673	C1	26	177			AFF	PL 560	H17
24A	4306			AFF	PL 673	C2	26	177			RP	PL 560	H8
24A	4306			NEW	PL 673	C1	26	178			AFF	PL 560	H17
24A	4307			AFF	PL 673	C2	26	178			RP	PL 560	H8
24A	4307			NEW	PL 673	C1	26	212			AFF	PL 560	H17
24A	4308			AFF	PL 673	C2	26	212			RP	PL 560	H8
24A	4308			NEW	PL 673	C1	26	213			AFF	PL 560	H17
24A	4309			AFF	PL 673	C2	26	213			RP	PL 560	H8
24A	4309			NEW	PL 673	C1	26	214			AFF	PL 560	H17
24A	5013			AMD	PL 570	8	26	214			RP	PL 560	H8

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26	215			AFF	PL 560	H17	26	490-C			RP	PL 560	H9
26	215			RP	PL 560	H8	26	490-D			AFF	PL 560	H17
26	218			AFF	PL 560	H17	26	490-D			RP	PL 560	H9
26	218			RP	PL 560	H8	26	490-E			AFF	PL 560	H17
26	241			AFF	PL 560	H17	26	490-E			RP	PL 560	H9
26	241			RP	PL 560	H8	26	490-F			AFF	PL 560	H17
26	242			AFF	PL 560	H17	26	490-F			RP	PL 560	H9
26	242			RP	PL 560	H8	26	490-G			AFF	PL 560	H17
26	243			AFF	PL 560	H17	26	490-G			RP	PL 560	H9
26	243			RP	PL 560	H8	26	569			AFF	PL 560	H17
26	244			AFF	PL 560	H17	26	569			AMD	PL 560	H10
26	244			RP	PL 560	H8	26	626			AMD	PL 580	1
26	245			AFF	PL 560	H17	26	664	3		AMD	PL 510	1
26	245			RP	PL 560	H8	26	1043	5-A		RPR	PL 560	G10
26	246			AFF	PL 560	H17	26	1043	11	F	AMD	PL 587	1,2
26	246			RP	PL 560	H8	26	1043	11	F	AMD	PL 612	1,2
26	247			AFF	PL 560	H17	26	1082	1		AMD	PL 560	G11
26	247			RP	PL 560	H8	26	1082	13		AFF	PL 657	10
26	471			AFF	PL 560	H17	26	1082	13		AMD	PL 657	1
26	471			RP	PL 560	H9	26	1082	14	A	AFF	PL 657	10
26	472			AFF	PL 560	H17	26	1082	14	A	AMD	PL 657	2
26	472			RP	PL 560	H9	26	1082	14	B	AFF	PL 657	10
26	473			AFF	PL 560	H17	26	1082	14	B	AMD	PL 657	2
26	473			RP	PL 560	H9	26	1084	1		AMD	PL 560	G12
26	474			AFF	PL 560	H17	26	1191	7	B	AFF	PL 694	E2
26	474			RP	PL 560	H9	26	1191	7	B	AMD	PL 694	D53
26	475			AFF	PL 560	H17	26	1191	9		NEW	PL 554	1
26	475			AMD	PL 560	F14	26	1192	6-D		AFF	PL 665	DD12
26	475			RP	PL 560	H9	26	1192	6-D		AMD	PL 665	DD1
26	476			AFF	PL 560	H17	26	1192	12		COR	RR 1	23
26	476			RP	PL 560	H9	26	1197	8		AFF	PL 665	DD12
26	477			AFF	PL 560	H17	26	1197	8		RP	PL 665	DD2
26	477			RP	PL 560	H9	26	1197	8-A		AFF	PL 665	DD12
26	478			AFF	PL 560	H17	26	1197	8-A		NEW	PL 665	DD3
26	478			RP	PL 560	H9	26	1221	1	A	AFF	PL 657	10
26	479			AFF	PL 560	H17	26	1221	1	A	AMD	PL 657	3
26	479			RP	PL 560	H9	26	1225	3		AFF	PL 657	10
26	480			AFF	PL 560	H17	26	1225	3		AMD	PL 657	4
26	480			RP	PL 560	H9	26	1225	4		AFF	PL 657	10
26	481			AFF	PL 560	H17	26	1225	4		AMD	PL 657	4
26	481			RP	PL 560	H9	26	1225	8		AFF	PL 657	10
26	482			AFF	PL 560	H17	26	1225	8		NEW	PL 657	5
26	482			RP	PL 560	H9	26	1226	1	A	AFF	PL 657	10
26	484			AFF	PL 560	H17	26	1226	1	A	AMD	PL 657	6
26	484			RP	PL 560	H9	26	1230	4	A	AMD	PL 560	G13
26	485			AFF	PL 560	H17	26	1301			AMD	PL 524	2
26	485			RP	PL 560	H9	26	1401			RP	PL 560	G14
26	485-A			AFF	PL 560	H17	26	1401	3		AMD	PL 618	15
26	485-A			RP	PL 560	H9	26	1401	4		AMD	PL 618	15
26	486			AFF	PL 560	H17	26	1401	5		AMD	PL 618	16
26	486			RP	PL 560	H9	26	1401	6		NEW	PL 618	17
26	487			AFF	PL 560	H17	26	1401-A			NEW	PL 560	G15
26	487			RP	PL 560	H9	26	1401-B			NEW	PL 560	G15
26	488			AFF	PL 560	H17	26	1411			NEW	PL 560	F13
26	488			RP	PL 560	H9	26	1411-A			NEW	PL 560	F13
26	489			AFF	PL 560	H17	26	1411-B			NEW	PL 560	F13
26	489			RP	PL 560	H9	26	1411-C			NEW	PL 560	F13
26	489-A			AFF	PL 560	H17	26	1411-D			NEW	PL 560	F13
26	489-A			RP	PL 560	H9	26	1411-E			NEW	PL 560	F13
26	490			AFF	PL 560	H17	26	1411-F			NEW	PL 560	F13
26	490			RP	PL 560	H9	26	1411-G			NEW	PL 560	F13
26	490-A			AFF	PL 560	H17	26	1411-H			NEW	PL 560	F13
26	490-A			RP	PL 560	H9	26	1411-I			NEW	PL 560	F13
26	490-B			AFF	PL 560	H17	26	1412			NEW	PL 560	F13
26	490-B			RP	PL 560	H9	26	1412-A			NEW	PL 560	F13
26	490-C			AFF	PL 560	H17	26	1412-B			NEW	PL 560	F13

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26	1412-C			NEW	PL 560	F13	26	2031			AFF	PL 665	DD12
26	1412-D			NEW	PL 560	F13	26	2031			NEW	PL 665	DD5
26	1412-E			NEW	PL 560	F13	26	2106			AFF	PL 560	H17
26	1412-F			NEW	PL 560	F13	26	2106			AMD	PL 560	H11
26	1413			NEW	PL 560	F13	26	2159-D			AFF	PL 665	DD12
26	1413-A			NEW	PL 560	F13	26	2159-D			AMD	PL 665	DD6
26	1413-B			NEW	PL 560	F13	26	2171	2		AFF	PL 665	DD12
26	1413-C			NEW	PL 560	F13	26	2171	2		RP	PL 665	DD7
26	1413-D			NEW	PL 560	F13	26	2171	3		COR	RR 1	25
26	1413-E			NEW	PL 560	F13	26	2171	4		AFF	PL 665	DD12
26	1414			NEW	PL 560	F13	26	2171	4		RP	PL 665	DD8
26	1414-A			NEW	PL 560	F13							
26	1415			NEW	PL 560	F13							
26	1415-A			NEW	PL 560	F13	27	377			AMD	PL 502	E30
26	1415-B			NEW	PL 560	F13	27	553	1		AMD	PL 519	7
26	1415-C			NEW	PL 560	F13							
26	1415-D			NEW	PL 560	F13							
26	1416			NEW	PL 560	F13	28A	2	15		D1	NEW	PL 558 1
26	1416-A			NEW	PL 560	F13	28A	2	15		M	AMD	PL 558 2
26	1417			NEW	PL 560	F13	28A	64	3			AMD	PL 560 S1
26	1418			NEW	PL 560	F13	28A	708	1			AMD	PL 582 1
26	1418-A			NEW	PL 560	F13	28A	708-A				NEW	PL 582 2
26	1418-B			NEW	PL 560	F13	28A	1004	3		E1	NEW	PL 558 3
26	1418-C			NEW	PL 560	F13	28A	1073				AMD	PL 558 4
26	1418-D			NEW	PL 560	F13	28A	1073	1			AMD	PL 558 5
26	1418-E			NEW	PL 560	F13	28A	1074	1			AMD	PL 558 6
26	1418-F			NEW	PL 560	F13							
26	1418-G			NEW	PL 560	F13							
26	1418-H			NEW	PL 560	F13	29A	101	30			AMD	PL 584 B1
26	1418-I			NEW	PL 560	F13	29A	101	61-A			AFF	PL 645 B24
26	1418-J			NEW	PL 560	F13	29A	101	61-A			NEW	PL 645 B4
26	1418-K			NEW	PL 560	F13	29A	103	3			AMD	PL 584 B2
26	1418-L			NEW	PL 560	F13	29A	110				RP	PL 584 B3
26	1418-M			NEW	PL 560	F13	29A	204				AFF	PL 645 B24
26	1419			NEW	PL 560	F13	29A	204				NEW	PL 645 B5
26	1419-A			NEW	PL 560	F13	29A	252	1			RPR	PL 625 A31
26	1420			NEW	PL 560	F13	29A	255				AFF	PL 645 B24
26	1420-A			NEW	PL 560	F13	29A	255				NEW	PL 645 B6
26	1420-B			NEW	PL 560	F13	29A	256				AFF	PL 645 B24
26	1420-C			NEW	PL 560	F13	29A	256				NEW	PL 645 B6
26	1421			NEW	PL 560	F13	29A	351	1-A			RPR	PL 584 B4
26	1421-A			NEW	PL 560	F13	29A	401	2			AFF	PL 645 B24
26	1421-B			NEW	PL 560	F13	29A	401	2			AMD	PL 645 B7
26	1452			AFF	PL 560	G29	29A	403				RP	PL 625 C4
26	1452			AMD	PL 560	G16	29A	411				AFF	PL 645 B24
26	1454			AFF	PL 560	G29	29A	411				NEW	PL 645 B8
26	1454			AMD	PL 560	G17	29A	451	1-A			AFF	PL 645 C16
26	2011			AFF	PL 665	DD12	29A	451	1-A			NEW	PL 645 C1
26	2011			RP	PL 665	DD4	29A	451	4		D	AFF	PL 645 C16
26	2012			AFF	PL 665	DD12	29A	451	4		D	AMD	PL 645 C2
26	2012			RP	PL 665	DD4	29A	451	6			AMD	PL 645 C3
26	2013			AFF	PL 665	DD12	29A	456				AFF	PL 645 A18
26	2013			RP	PL 665	DD4	29A	456				AMD	PL 645 A2
26	2013	9-A		COR	RR 1	24	29A	457	2			RP	PL 645 A3
26	2013-A			AFF	PL 665	DD12	29A	457	7			AFF	PL 645 C16
26	2013-A			RP	PL 665	DD4	29A	457	7			AMD	PL 645 C4
26	2014			AFF	PL 665	DD12	29A	458	2			AFF	PL 645 C16
26	2014			RP	PL 665	DD4	29A	458	2			AMD	PL 645 C5
26	2015			AFF	PL 665	DD12	29A	461				AFF	PL 645 C16
26	2015			RP	PL 665	DD4	29A	461				AMD	PL 645 C6
26	2015-A			AFF	PL 665	DD12	29A	466				AFF	PL 645 C16
26	2015-A			RP	PL 665	DD4	29A	466				NEW	PL 645 C7
26	2016			AFF	PL 665	DD12	29A	467				NEW	PL 645 C7
26	2016			RP	PL 665	DD4	29A	501	1			AFF	PL 645 C16
26	2017			AFF	PL 665	DD12	29A	501	1			AMD	PL 645 C8
26	2017			RP	PL 665	DD4	29A	504	1			AFF	PL 645 C16

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29A	504	5		AMD	PL 584	A1	29A	1921			AMD	PL 584	B7
29A	505	2		AFF	PL 645	C16	29A	1953	2	A	AMD	PL 584	A3
29A	505	2		AMD	PL 645	C10	29A	2074	3		AMD	PL 584	B8
29A	509			AFF	PL 645	C16	29A	2074	3-A		NEW	PL 584	B9
29A	509			AMD	PL 645	C11	29A	2080			AMD	PL 584	B10
29A	511	4		NEW	PL 513	1	29A	2081	3		REN	PL 597	1
29A	512			AMD	PL 645	B9	29A	2081	3-A		AMD	PL 597	2
29A	513	2	A	AFF	PL 645	C16	29A	2081	4		AMD	PL 597	3
29A	513	2	A	AMD	PL 645	C12	29A	2081	6		NEW	PL 597	4
29A	513	2	B	AFF	PL 645	C16	29A	2104	4		AFF	PL 645	B24
29A	513	2	B	AMD	PL 645	C12	29A	2104	4		NEW	PL 645	B16
29A	515	1		AFF	PL 645	C16	29A	2303	1	G	AMD	PL 645	B17
29A	515	1		AMD	PL 645	C13	29A	2358	1		AMD	PL 584	A4
29A	515	2		AFF	PL 645	C16	29A	2358	2		AMD	PL 584	A4
29A	515	2		AMD	PL 645	C13	29A	2360	2		AMD	PL 546	1
29A	520	1		AFF	PL 645	C16	29A	2360	4		AMD	PL 584	A5
29A	520	1		AMD	PL 645	C14	29A	2360	5		AMD	PL 584	A5
29A	521	3	B	AMD	PL 645	A4	29A	2360	6		AMD	PL 584	A5
29A	521	6	B	AMD	PL 645	A5	29A	2360	15		NEW	PL 517	1
29A	523	2		AFF	PL 645	B24	29A	2362	2		AMD	PL 546	2
29A	523	2		AMD	PL 645	B10	29A	2362	3		AMD	PL 546	2
29A	524	4		AMD	PL 645	B11	29A	2362	4		AMD	PL 546	2
29A	525	11		AFF	PL 645	B24	29A	2395	1		COR	RR 1	26
29A	525	11		AMD	PL 645	B12	29A	2405	1		AMD	PL 679	16
29A	525	12		AFF	PL 645	B24	29A	2411	5	D	AMD	PL 645	B18
29A	525	12		AMD	PL 645	B12	29A	2412	1	D	RP	PL 625	A34
29A	558	1		RPR	PL 625	A32	29A	2412-A	3		AMD	PL 645	B19
29A	588	1-A		NEW	PL 625	A33	29A	2455	1	B	AMD	PL 645	B20
29A	651	5		AFF	PL 645	A18	29A	2455	1	D	AMD	PL 645	B20
29A	651	5		AMD	PL 645	A6	29A	2459	1		AFF	PL 694	E2
29A	651-A			NEW	PL 645	A7	29A	2459	1		AMD	PL 694	D54
29A	657	2		AFF	PL 645	A18	29A	2459	2		AFF	PL 694	E2
29A	657	2		AMD	PL 645	A8	29A	2459	2		AMD	PL 694	D54
29A	657	7		AFF	PL 645	A18	29A	2521	6		AFF	PL 645	B24
29A	657	7		AMD	PL 645	A8	29A	2521	6		AMD	PL 645	B21
29A	664	3		AFF	PL 645	A18	29A	2551	1	J	AMD	PL 645	B22
29A	664	3		AMD	PL 645	A9	29A	2604			AMD	PL 584	B11
29A	665	5	D	AMD	PL 645	A10							
29A	667	5	A	AFF	PL 645	A18							
29A	667	5	A	RP	PL 645	A11	30	6205	2	B	AFF	PL 601	2
29A	667	5	B	AMD	PL 645	A12	30	6205	2	B	AMD	PL 601	1
29A	701	4		AMD	PL 645	A13							
29A	954	5		AMD	PL 645	B13	30A	1	2-A		NEW	PL 683	3
29A	1251	1-A		NEW	PL 584	B5	30A	2	1-B	A	AFF	PL 701	2
29A	1251	2		AMD	PL 584	B6	30A	2	1-B	A	RPR	PL 701	1
29A	1304	1	F	AFF	PL 505	22	30A	2	1-B	B	AFF	PL 701	2
29A	1304	1	F	AMD	PL 505	11	30A	2	1-B	B	RPR	PL 701	1
29A	1351	2	D	AFF	PL 505	22	30A	2	1-B	C	AFF	PL 701	2
29A	1351	2	D	AMD	PL 505	12	30A	2	1-B	C	RPR	PL 701	1
29A	1351	3		AFF	PL 505	22	30A	2	1-B	D	AFF	PL 701	2
29A	1351	3		AMD	PL 505	13	30A	2	1-B	D	RPR	PL 701	1
29A	1352	3	C	AFF	PL 505	22	30A	63			AMD	PL 683	4
29A	1352	3	C	RP	PL 505	14	30A	66	15		AMD	PL 501	1
29A	1354			AFF	PL 505	22	30A	66	15		AMD	PL 611	B1
29A	1354			NEW	PL 505	15	30A	151	3		AMD	PL 683	5
29A	1354	6	A	AMD	PL 605	2	30A	371			RP	PL 683	6
29A	1355			AFF	PL 505	22	30A	371-A			RP	PL 683	7
29A	1355			NEW	PL 505	16	30A	821			AMD	PL 520	1
29A	1356			NEW	PL 605	3	30A	825	3		RP	PL 520	2
29A	1401	3		AMD	PL 645	A14	30A	825	6		RP	PL 520	2
29A	1404	2		AFF	PL 645	B24	30A	825	7		RP	PL 520	2
29A	1404	2		AMD	PL 645	B14	30A	825	8		AMD	PL 520	3
29A	1407			AMD	PL 645	B15	30A	826			AMD	PL 520	4
29A	1611	5		AMD	PL 645	A15	30A	900-F			NEW	PL 682	1
29A	1612			AMD	PL 645	A16	30A	900-G			NEW	PL 682	1

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30A	900-I			NEW	PL 682	1	31	751	16		AMD	PL 514	9
30A	900-J			NEW	PL 682	1	31	801			NEW	PL 633	B1
30A	1557			RP	PL 647	4	31	802			NEW	PL 633	B1
30A	1557-A			NEW	PL 647	5	31	803			NEW	PL 633	B1
30A	2356	3		AMD	PL 616	1	31	804			NEW	PL 633	B1
30A	2357	1		AMD	PL 655	1	31	805			NEW	PL 633	B1
30A	2652	1	B	AFF	PL 694	E2	31	806			NEW	PL 633	B1
30A	2652	1	B	AMD	PL 694	D55	31	807			NEW	PL 633	B1
30A	4358	1	A	AMD	PL 625	A35	31	808			NEW	PL 633	B1
30A	4452	7		AFF	PL 704	C2	31	809			NEW	PL 633	B1
30A	4452	7		AMD	PL 704	B1	31	810			NEW	PL 633	B1
30A	5042	1	A	AFF	PL 560	K83	31	811			NEW	PL 633	B1
30A	5042	1	A	AMD	PL 560	K82	31	812			NEW	PL 633	B1
30A	5252	8		AMD	PL 669	1	31	813			NEW	PL 633	B1
30A	5253	1	C	AMD	PL 669	2	31	814			NEW	PL 633	B1
30A	5253	1	D	AMD	PL 669	2	31	815			NEW	PL 633	B1
30A	5253	1	E	AMD	PL 669	2	31	816			NEW	PL 633	B1
30A	5254	5		NEW	PL 669	3	31	821			NEW	PL 633	B1
30A	5254-A	7		AMD	PL 669	4	31	822			NEW	PL 633	B1
30A	5603	2	A	AMD	PL 549	1	31	823			NEW	PL 633	B1
30A	5681	5-A		AFF	PL 665	E4	31	824			NEW	PL 633	B1
30A	5681	5-A		NEW	PL 665	E1	31	825			NEW	PL 633	B1
30A	5706	2		AMD	PL 664	2	31	826			NEW	PL 633	B1
30A	5953-A	1		RPR	PL 564	1	31	827			NEW	PL 633	B1
30A	6006-A	1	A	RPR	PL 564	2	31	828			NEW	PL 633	B1
30A	6006-A	3	E	AMD	PL 564	3	31	829			NEW	PL 633	B1
30A	6006-B	2	G	AFF	PL 665	II3	31	830			NEW	PL 633	B1
30A	6006-B	2	G	AMD	PL 665	II1	31	851			NEW	PL 633	B1
30A	6006-B	2	H	AFF	PL 665	II3	31	852			NEW	PL 633	B1
30A	6006-B	2	H	AMD	PL 665	II1	31	853			NEW	PL 633	B1
30A	6006-B	2	I	AFF	PL 665	II3	31	854			NEW	PL 633	B1
30A	6006-B	2	I	NEW	PL 665	II2	31	855			NEW	PL 633	B1
30A	7501	6		AMD	PL 607	1	31	856			NEW	PL 633	B1
30A	7501	7		AMD	PL 607	1	31	857			NEW	PL 633	B1
30A	7501	8		NEW	PL 607	2	31	858			NEW	PL 633	B1
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31	6			AMD	PL 633	C10	31	861			NEW	PL 633	B1
31	282	4-A		NEW	PL 633	A1	31	862			NEW	PL 633	B1
31	282	5-A		NEW	PL 633	A1	31	863			NEW	PL 633	B1
31	282	7		NEW	PL 633	A1	31	871			NEW	PL 633	B1
31	286			AMD	PL 633	A2	31	872			NEW	PL 633	B1
31	295			RP	PL 633	A3	31	873			NEW	PL 633	B1
31	295-A			NEW	PL 633	A4	31	874			NEW	PL 633	B1
31	298	1		AMD	PL 633	A5	31	875			NEW	PL 633	B1
31	314	1		AMD	PL 633	A6	31	876			NEW	PL 633	B1
31	314	2		AMD	PL 633	A6							
31	314	3		NEW	PL 633	A7							
31	316			AMD	PL 633	A8	32	60-B			AMD	PL 502	H18
31	320	1	B	AMD	PL 633	A9	32	60-C			AMD	PL 502	H18
31	320	4		RPR	PL 633	A10	32	60-D			AMD	PL 502	H18
31	403	1	A	RPR	PL 633	C11	32	60-E			AMD	PL 502	H18
31	403	1	C	AMD	PL 633	C12	32	60-F			AMD	PL 502	H18
31	406	2	D	AMD	PL 514	3	32	60-G			AMD	PL 502	H18
31	406	2	E	AMD	PL 514	3	32	60-H			AMD	PL 502	H18
31	422-A			AMD	PL 633	C13	32	60-I			AMD	PL 502	H18
31	603	1	A	RPR	PL 633	C14	32	60-J			NEW	PL 686	2
31	603	1	B	AMD	PL 633	C15	32	60-K			NEW	PL 686	2
31	606	2	D	AMD	PL 514	4	32	60-L			NEW	PL 686	2
31	606	2	E	AMD	PL 514	5	32	62	1-A		NEW	PL 502	H19
31	611			RPR	PL 633	C16	32	62	4		NEW	PL 502	H20
31	622	1	C	AMD	PL 514	6	32	63-B	5		AMD	PL 502	H21
31	623	3	C	AMD	PL 514	7	32	271-A			RP	PL 625	A36
31	623	3	D	AMD	PL 514	7	32	553-A	3		AMD	PL 502	H22
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32	1099			AMD	PL 590	2	32	4908	1		AMD	PL 502	H48
32	1100-B	2		AMD	PL 590	3	32	4911			AMD	PL 502	H48
32	1100-B	3		AMD	PL 590	4	32	4912			AMD	PL 502	H34
32	1100-C			AMD	PL 590	5	32	5013			AMD	PL 502	H35
32	1100-D			AMD	PL 590	6	32	5015			AMD	PL 502	H36
32	1100-E			AMD	PL 590	7	32	6028			AMD	PL 502	H37
32	1100-E1			NEW	PL 590	8	32	6214-A	2-A		AMD	PL 625	B12
32	1100-G			RP	PL 590	9	32	6215			AMD	PL 502	H38
32	1101	1		AMD	PL 502	H24	32	8105	4	A	AFF	PL 694	E2
32	1101	3		AMD	PL 502	H25	32	8105	4	A	AMD	PL 694	D56
32	1102	6		AFF	PL 560	H17	32	9405	2-C	A	AFF	PL 694	E2
32	1102	6		AMD	PL 560	H12	32	9405	2-C	A	AMD	PL 694	D57
32	1153-B	4		AMD	PL 502	H48	32	9405	4	B	AFF	PL 694	E2
32	1155-A	1		AMD	PL 502	H48	32	9405	4	B	AMD	PL 694	D58
32	1658-A	1		AMD	PL 502	H26	32	9410-A	5	B	AFF	PL 694	E2
32	1658-A	2		AMD	PL 502	H27	32	9410-A	5	B	AMD	PL 694	D59
32	1658-J			AMD	PL 502	H28	32	9501			AFF	PL 505	22
32	1658-M			AMD	PL 502	H29	32	9501			RP	PL 505	17
32	1723	2		RP	PL 656	A5	32	9502			AFF	PL 505	22
32	1726			RPR	PL 656	A6	32	9502			RP	PL 505	17
32	1732	1		RP	PL 656	A7	32	9552			AFF	PL 505	22
32	1732	1-A		NEW	PL 656	A8	32	9552			RP	PL 505	17
32	1734	2		AMD	PL 656	A9	32	9553-A			AFF	PL 505	22
32	1735	2		AMD	PL 656	A10	32	9553-A			RP	PL 505	17
32	1736	1		AMD	PL 656	A11	32	9555			AFF	PL 505	22
32	1737			AMD	PL 656	A12	32	9555			RP	PL 505	17
32	1738			AMD	PL 656	A13	32	9601			AFF	PL 505	22
32	2003			AMD	PL 502	H48	32	9601			RP	PL 505	17
32	2102	2	D	AMD	PL 625	B11	32	9602			AFF	PL 505	22
32	2102	2	F	AFF	PL 670	D5	32	9602			RP	PL 505	17
32	2102	2	F	AMD	PL 670	C4	32	9603			AFF	PL 505	22
32	2102	2	G	AFF	PL 670	D5	32	9603			RP	PL 505	17
32	2102	2	G	AMD	PL 670	C5	32	9604			AFF	PL 505	22
32	2102	2	H	AFF	PL 670	D5	32	9604			RP	PL 505	17
32	2102	2	H	NEW	PL 670	C6	32	9605			AFF	PL 505	22
32	2153-A			AMD	PL 625	A38	32	9605			RP	PL 505	17
32	2153-A	11		RPR	PL 625	A37	32	9605	1		AMD	PL 502	H39
32	2258-A			AFF	PL 560	K83	32	9605	2		AMD	PL 502	H39
32	2258-A			AMD	PL 560	K82	32	9607			AFF	PL 505	22
32	2285	1		AMD	PL 502	H30	32	9607			RP	PL 505	17
32	2401-A	4		AFF	PL 560	H17	32	9608			AFF	PL 505	22
32	2401-A	4		AMD	PL 560	H13	32	9608			RP	PL 505	17
32	2411	3		AMD	PL 606	1	32	9609			AFF	PL 505	22
32	2415			AMD	PL 606	2	32	9609			RP	PL 505	17
32	2417	6		AFF	PL 606	11	32	9710	1		AMD	PL 502	H40
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32	2419-A			RP	PL 606	4	32	9911	1		AMD	PL 502	H41
32	2420			NEW	PL 606	5	32	9911	2		RP	PL 625	A40
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32	2423	1		AMD	PL 606	7	32	11051			AFF	RR 1	28
32	2426			AMD	PL 606	8	32	12214	9		AMD	PL 502	H42
32	2430			NEW	PL 606	9	32	12401			RP	PL 671	12
32	2430-A			NEW	PL 606	9	32	12402			RP	PL 671	12
32	2446			AMD	PL 606	10	32	12403			RP	PL 671	12
32	3270			AMD	PL 671	11	32	12404			RP	PL 671	12
32	3301	2-A		AMD	PL 502	H31	32	12405			RP	PL 671	12
32	3835			AMD	PL 502	H32	32	12406			RP	PL 671	12
32	4167	7		NEW	PL 660	1	32	12406	5		RP	PL 625	A41
32	4167	8		NEW	PL 660	1	32	12407			RP	PL 671	12
32	4167	9		NEW	PL 660	1	32	12407	6		RP	PL 625	A42
32	4667			RPR	PL 681	2	32	12408			RP	PL 671	12
32	4682-A	3		RP	PL 681	3	32	12409			RP	PL 671	12
32	4688			RPR	PL 681	4	32	12410			RP	PL 671	12
32	4700-G	2		AMD	PL 502	E32	32	12410	3		RP	PL 625	A43
32	4700-G	6		AMD	PL 502	E32	32	12411			RP	PL 671	12

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32	12413			RP	PL 671	12	32	15113			AFF	PL 560	H17
32	12414			RP	PL 671	12	32	15113			NEW	PL 560	H14
32	12501			NEW	PL 671	13	32	15114			AFF	PL 560	H17
32	12502			NEW	PL 671	13	32	15114			NEW	PL 560	H14
32	12503			NEW	PL 671	13	32	15115			AFF	PL 560	H17
32	12504			NEW	PL 671	13	32	15115			NEW	PL 560	H14
32	12505			NEW	PL 671	13	32	15116			AFF	PL 560	H17
32	12506			NEW	PL 671	13	32	15116			NEW	PL 560	H14
32	12511			NEW	PL 671	13	32	15117			AFF	PL 560	H17
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32	12523			NEW	PL 671	13	32	15201			AFF	PL 560	H17
32	12524			NEW	PL 671	13	32	15201			NEW	PL 560	H14
32	12525			NEW	PL 671	13	32	15202			AFF	PL 560	H17
32	12526			NEW	PL 671	13	32	15202			NEW	PL 560	H14
32	13069	3		RPR	PL 502	H43	32	15203			AFF	PL 560	H17
32	13069	4		RP	PL 502	H44	32	15203			NEW	PL 560	H14
32	13069	4-A		NEW	PL 502	H45	32	15204			AFF	PL 560	H17
32	13723	7	C	RP	PL 621	4	32	15204			NEW	PL 560	H14
32	13804	5		NEW	PL 548	1	32	15205			AFF	PL 560	H17
32	13978	5		AMD	PL 502	H46	32	15205			NEW	PL 560	H14
32	13980	1		AMD	PL 502	H47	32	15206			AFF	PL 560	H17
32	14051	1-A		NEW	PL 618	18	32	15206			NEW	PL 560	H14
32	14052			AMD	PL 618	19	32	15207			AFF	PL 560	H17
32	14053			AMD	PL 618	20	32	15207			NEW	PL 560	H14
32	14055	1	A	RPR	PL 618	21	32	15208			AFF	PL 560	H17
32	14055	3	B	AMD	PL 560	G18	32	15208			NEW	PL 560	H14
32	14055	5		AMD	PL 618	22	32	15209			AFF	PL 560	H17
32	14203	2	C	AFF	PL 560	K83	32	15209			NEW	PL 560	H14
32	14203	2	C	AMD	PL 560	K82	32	15210			AFF	PL 560	H17
32	14362			AMD	PL 502	H48	32	15210			NEW	PL 560	H14
32	14501	2		AMD	PL 502	H48	32	15211			AFF	PL 560	H17
32	14512	1		RPR	PL 681	5	32	15211			NEW	PL 560	H14
32	14810			AMD	PL 502	H48	32	15212			AFF	PL 560	H17
32	14812			AMD	PL 502	H48	32	15212			NEW	PL 560	H14
32	14816			RPR	PL 625	A44	32	15213			AFF	PL 560	H17
32	14817			NEW	PL 625	A45	32	15213			NEW	PL 560	H14
32	15101			AFF	PL 560	H17	32	15214			AFF	PL 560	H17
32	15101			NEW	PL 560	H14	32	15214			NEW	PL 560	H14
32	15102			AFF	PL 560	H17	32	15215			AFF	PL 560	H17
32	15102			NEW	PL 560	H14	32	15215			NEW	PL 560	H14
32	15103			AFF	PL 560	H17	32	15216			AFF	PL 560	H17
32	15103			NEW	PL 560	H14	32	15216			NEW	PL 560	H14
32	15104			AFF	PL 560	H17	32	15217			AFF	PL 560	H17
32	15104			NEW	PL 560	H14	32	15217			NEW	PL 560	H14
32	15105			AFF	PL 560	H17	32	15218			AFF	PL 560	H17
32	15105			NEW	PL 560	H14	32	15218			NEW	PL 560	H14
32	15106			AFF	PL 560	H17	32	15219			AFF	PL 560	H17
32	15106			NEW	PL 560	H14	32	15219			NEW	PL 560	H14
32	15107			AFF	PL 560	H17	32	15220			AFF	PL 560	H17
32	15107			NEW	PL 560	H14	32	15220			NEW	PL 560	H14
32	15108			AFF	PL 560	H17	32	15221			AFF	PL 560	H17
32	15108			NEW	PL 560	H14	32	15221			NEW	PL 560	H14
32	15109			AFF	PL 560	H17	32	15222			AFF	PL 560	H17
32	15109			NEW	PL 560	H14	32	15222			NEW	PL 560	H14
32	15110			AFF	PL 560	H17	32	15223			AFF	PL 560	H17
32	15110			NEW	PL 560	H14	32	15223			NEW	PL 560	H14
32	15111			AFF	PL 560	H17	32	15224			AFF	PL 560	H17
32	15111			NEW	PL 560	H14	32	15224			NEW	PL 560	H14
32	15112			AFF	PL 560	H17	32	15225			AFF	PL 560	H17

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32	15225			NEW	PL 560	H14	34A	11121			NEW	PL 680	13
32	15226			AFF	PL 560	H17	34A	11141			NEW	PL 680	13
32	15226			NEW	PL 560	H14	34A	11142			NEW	PL 680	13
32	15227			AFF	PL 560	H17	34A	11143			NEW	PL 680	13
32	15227			NEW	PL 560	H14	34A	11144			NEW	PL 680	13
							34B	1001	2		AFF	PL 560	K83
33	480	2		AFF	PL 694	E2	34B	1001	2		AMD	PL 560	K8
33	480	2		AMD	PL 694	D60	34B	1001	3		AFF	PL 560	K83
33	601			AMD	PL 683	8	34B	1001	3		AMD	PL 560	K9
33	851 -A			NEW	PL 523	1	34B	1001	4		AFF	PL 560	K83
33	1202	7	D	AMD	PL 502	E30	34B	1001	4		AMD	PL 560	K82
33	1203			AMD	PL 502	E30	34B	1001	8	E	AMD	PL 550	1
33	1208			AMD	PL 502	E30	34B	1001	8	F	AMD	PL 550	1
33	1208	2		AMD	PL 502	E30	34B	1001	8	G	NEW	PL 550	2
33	1209			AMD	PL 502	E30	34B	1001	8	F	RP	PL 560	K10
33	1215			AMD	PL 502	E30	34B	1001	8	G	NEW	PL 560	K11
33	1217			AMD	PL 502	E30	34B	1201 -A	1		AMD	PL 560	K12
33	1819	1		AFF	PL 560	K83	34B	1201 -A	2		AMD	PL 560	K12
33	1819	1		AMD	PL 560	K82	34B	1201 -A	3		AMD	PL 560	K12
							34B	1201 -A	4		RP	PL 560	K13
34A	1210	2		AFF	PL 665	MM3	34B	1201 -A	5		RP	PL 560	K13
34A	1210	2		AMD	PL 665	MM1,2	34B	1203	4		AFF	PL 560	K83
34A	1403	2		AMD	PL 502	F18	34B	1203	4		AMD	PL 560	K82
34A	1403	3		AMD	PL 502	F19	34B	1203	9		AFF	PL 560	L16
34A	1403	5-A		NEW	PL 502	F20	34B	1203	9		NEW	PL 560	L13
34A	3036	3		NEW	PL 502	F21	34B	1204	2	B	AMD	PL 560	K14
34A	3036	4		NEW	PL 502	F21	34B	1204	2	C	AFF	PL 560	K83
34A	3063 -A			AMD	PL 647	6	34B	1204	2	C	RPR	PL 560	K15
34A	3201			AMD	PL 502	F22	34B	1204	2	C	AMD	PL 691	3
34A	3266	1		AMD	PL 502	F23	34B	1204	3	A	AMD	PL 560	K16
34A	3401			RPR	PL 502	F24	34B	1204	3	B	AMD	PL 560	K16
34A	3403	1	B	AMD	PL 502	F25	34B	1204	8		AMD	PL 560	K17
34A	3403	3		RP	PL 502	F26	34B	1205	1		AMD	PL 560	K18
34A	3406	1		AMD	PL 502	E30	34B	1207	1	B	AMD	PL 691	4
34A	3406	2		AMD	PL 502	E30	34B	1207	5	D	AMD	PL 560	K19
34A	3802	1	B	AMD	PL 502	F27	34B	1208	4		AMD	PL 560	K20
34A	3802	1	C	AMD	PL 502	F27	34B	1208	5		AFF	PL 560	K83
34A	3802	1	D	NEW	PL 502	F28	34B	1208	5		AMD	PL 560	K82
34A	3805	2		AFF	PL 560	K83	34B	1208 -A	2		AMD	PL 560	K21
34A	3805	2		AMD	PL 560	K82	34B	1208 -A	4	A	AFF	PL 560	K81
34A	3812			AMD	PL 502	F29	34B	1208 -A	4	B	AFF	PL 560	K81
34A	4104	2		AFF	PL 560	K83	34B	1208 -A	4	A	AMD	PL 691	5
34A	4104	2		AMD	PL 560	K82	34B	1208 -A	4	B	AMD	PL 691	5
34A	5001	2		RP	PL 502	F30	34B	1216	1		AMD	PL 560	K22
34A	5001	3		RP	PL 502	F30	34B	1216	3		AMD	PL 560	K23
34A	5003			AMD	PL 502	F31	34B	1218	1		AMD	PL 560	K24
34A	5208	1		AMD	PL 502	F32	34B	1218	2		AMD	PL 560	K24
34A	5401			RPR	PL 502	F33	34B	1232	1		AFF	PL 560	K83
34A	5402			AMD	PL 502	F34	34B	1232	1		AMD	PL 560	K82
34A	5403			RP	PL 502	F35	34B	1401	1	B	AMD	PL 560	K25,26
34A	5404			AMD	PL 502	F36	34B	1402			AMD	PL 560	K27
34A	5404	2		AMD	PL 502	F37	34B	1431	1	B	AFF	PL 560	K83
34A	5404	3	B	AMD	PL 502	F38	34B	1431	1	B	AMD	PL 560	K82
34A	5404	3	C	AMD	PL 502	F39	34B	1602			AFF	PL 560	K83
34A	5404	3	E	NEW	PL 502	F40	34B	1602			AMD	PL 560	K28
34A	5405			RP	PL 502	F41	34B	1803			AMD	PL 560	K29
34A	7002	2	A	AFF	PL 560	K83	34B	3001			AFF	PL 560	K83
34A	7002	2	A	AMD	PL 560	K82	34B	3001			AMD	PL 560	K31
34A	11001 -A			NEW	PL 680	11	34B	3003	3		AMD	PL 560	K32
34A	11005			NEW	PL 680	12	34B	3004			AMD	PL 560	K33
34A	11101			NEW	PL 680	13	34B	3007			AMD	PL 560	K34
34A	11102			NEW	PL 680	13	34B	3008			AFF	PL 560	K83
34A	11103			NEW	PL 680	13	34B	3008			AMD	PL 560	K82
34A	11104			NEW	PL 680	13	34B	3009			NEW	PL 665	N1
34A	11105			NEW	PL 680	13	34B	3009			NEW	PL 697	1

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34B	3202	4	B	AMD	PL 560	K35	35A	5111			RP	PL 559	1
34B	3604	5		NEW	PL 691	6	35A	6301			RP	PL 616	2
34B	3607			NEW	PL 691	7	35A	6302			RP	PL 616	2
34B	3608			NEW	PL 691	7	35A	6303			RP	PL 616	3
34B	3609			NEW	PL 691	7	35A	6304			RP	PL 616	4
34B	3624			AMD	PL 560	K36	35A	6305			RP	PL 616	5
34B	3861	1	D	AFF	PL 560	K83	35A	6306			RP	PL 616	5
34B	3861	1	D	AMD	PL 560	K82	35A	6307			RP	PL 616	6
34B	3863	4	B	AFF	PL 560	K83	35A	6308			RP	PL 616	7
34B	3863	4	B	AMD	PL 560	K37	35A	6309			RP	PL 616	8
34B	5001	1-A		RP	PL 560	K38	35A	6310			NEW	PL 616	9
34B	5001	5		AMD	PL 560	K39	35A	6401			NEW	PL 616	10
34B	5001	7		AMD	PL 560	K40	35A	6402			NEW	PL 616	10
34B	5003	2		AMD	PL 560	K41	35A	6403			NEW	PL 616	10
34B	5003	2	A	AMD	PL 560	K42	35A	6404			NEW	PL 616	10
34B	5003	2	G	AMD	PL 560	K43	35A	6405			NEW	PL 616	10
34B	5003	2	H	AMD	PL 560	K44	35A	6406			NEW	PL 616	10
34B	5003	3		AMD	PL 560	K45	35A	6407			NEW	PL 616	10
34B	5004			AFF	PL 560	K83	35A	6408			NEW	PL 616	10
34B	5004			AMD	PL 560	K82	35A	6409			NEW	PL 616	10
34B	5201			AFF	PL 560	K83	35A	6410			NEW	PL 616	10
34B	5201			AMD	PL 560	K47	35A	6411			NEW	PL 616	10
34B	5203	1		AMD	PL 560	K48	35A	6412			NEW	PL 616	10
34B	5203	2		AMD	PL 560	K49	35A	6413			NEW	PL 616	10
34B	5203	3		AMD	PL 560	K50	35A	6414			NEW	PL 616	10
34B	5205			AMD	PL 560	K51	35A	6415			NEW	PL 616	10
34B	5401			AMD	PL 550	3	35A	6416			NEW	PL 616	10
34B	5403	2	A	AMD	PL 560	K52	35A	6417			NEW	PL 616	10
34B	5405			NEW	PL 550	4	35A	6418			NEW	PL 616	10
34B	5435	2		AMD	PL 560	K53	35A	7101	3		AFF	PL 631	5
34B	5437			AMD	PL 560	K54	35A	7101	3		RP	PL 631	1
34B	5466	2		AMD	PL 560	K55	35A	7101	4		AFF	PL 631	5
34B	5467	1		AMD	PL 560	K56	35A	7101	4		NEW	PL 631	2
34B	5469	3	A	AMD	PL 560	K57	35A	7104 -A			AFF	PL 631	5
34B	5471	2	E	AMD	PL 560	K58	35A	7104 -A			NEW	PL 631	3
34B	5473	1	B	AMD	PL 560	K59	35A	7302	1		AMD	PL 560	F15
34B	5481			NEW	PL 685	1	35A	7505	1		COR	RR 1	30
34B	5609	1		AMD	PL 560	K60							
34B	5609	2		AMD	PL 560	K61							
34B	5609	3		AMD	PL 560	K62	36	111	1-A		AFF	PL 538	2
34B	6001			AFF	PL 560	K83	36	111	1-A		AMD	PL 538	1
34B	6001			AMD	PL 560	K82	36	112	5-A		NEW	PL 639	1
34B	6003			AMD	PL 560	K63	36	174	1		AMD	PL 639	2
34B	6004			AMD	PL 560	K64	36	176 -A	16		AMD	PL 639	3
34B	6201	1		RP	PL 560	K66	36	177	1		AMD	PL 639	4
34B	6201	2	C	AMD	PL 560	K67	36	187 -B	1	A	AFF	PL 657	10
34B	6201	2-A		AFF	PL 560	K83	36	187 -B	1	A	AMD	PL 657	7
34B	6201	2-A		AMD	PL 560	K68	36	187 -B	7	G	AMD	PL 639	5
34B	6203	1		AMD	PL 560	K69	36	191	2	Q	RPR	PL 625	A46
34B	6203	2		AMD	PL 560	K70	36	191	2	R	RPR	PL 625	A47
34B	6204			AMD	PL 560	K71	36	191	2	S	AMD	PL 625	A48
34B	6205			AMD	PL 560	K72	36	191	2	T	NEW	PL 625	A49
34B	6241	2		AMD	PL 560	K73	36	191	2	T	NEW	PL 639	6
34B	6241	3		AMD	PL 560	K74	36	191	2	T	AFF	PL 657	10
34B	6242			NEW	PL 665	N2	36	191	2	T	NEW	PL 657	8
34B	6251			AMD	PL 560	K75	36	191	3		AFF	PL 694	E2
34B	6252	4	B	AMD	PL 560	K76	36	191	3		AMD	PL 694	D61
34B	6253 -A	7		NEW	PL 560	K77	36	193			NEW	PL 639	7
34B	6254	1		RP	PL 560	K78,79	36	652	1	C	AFF	PL 560	K83
34B	6254	2		AMD	PL 560	K80	36	652	1	C	AMD	PL 560	K82
							36	654	1	E	AMD	PL 545	1
							36	656	1	C	AMD	PL 504	B9
35A	116	1		COR	RR 1	29	36	1109	5		AMD	PL 603	1
35A	116	8		AMD	PL 665	O1	36	1112			AMD	PL 603	2
35A	3156			AFF	PL 698	4	36	1482	1	C	AFF	PL 645	B24

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36	1503	8		RP	PL 695	3	36	5176	2		AMD	PL 639	19
36	1503	8-A		NEW	PL 695	4	36	5200-A	1	H	AFF	PL 641	7
36	1545			AMD	PL 502	E30	36	5200-A	1	H	AMD	PL 641	4
36	1546			AMD	PL 502	E30	36	5200-A	1	I	AFF	PL 641	7
36	1603			AMD	PL 565	1	36	5200-A	1	I	AMD	PL 641	5
36	1752	10		AMD	PL 639	8	36	5200-A	1	J	AFF	PL 641	7
36	1752	10		AMD	PL 640	1	36	5200-A	1	J	RP	PL 641	6
36	1754			RP	PL 640	2	36	5200-A	2	H	AMD	PL 639	20
36	1754-B			NEW	PL 640	3	36	5206-B	2		AFF	PL 628	39
36	1756			RPR	PL 640	4	36	5206-B	2		AMD	PL 628	36
36	1760	12-A		AFF	PL 634	2	36	5206-B	4		AFF	PL 628	39
36	1760	12-A		AMD	PL 634	1	36	5206-B	4		AMD	PL 628	37
36	1760	21		AMD	PL 640	5	36	5215	2	B	AMD	PL 560	G19
36	1760	28	B	AFF	PL 560	K83	36	5215	2	C	AMD	PL 560	G20
36	1760	28	B	AMD	PL 560	K82	36	5219-D	3		AMD	PL 656	A16
36	1760	47		RPR	PL 625	B13	36	5219-D	4		AMD	PL 656	A17
36	1760	47-A		NEW	PL 625	B14	36	5219-J			AFF	PL 665	E4
36	1861			AMD	PL 640	6	36	5219-J			RP	PL 665	E3
36	1952-A			AMD	PL 625	A50	36	5231	3		NEW	PL 640	8
36	2113			AMD	PL 639	9	36	5232			RP	PL 639	21
36	2113			AMD	PL 640	7	36	5233			RP	PL 639	21
36	2526	3		AMD	PL 656	A14	36	5240			RP	PL 639	21
36	2526	4		AMD	PL 656	A15	36	5241			AMD	PL 639	22
36	2801-A	1		AFF	PL 665	L9	36	5242			AMD	PL 639	23
36	2801-A	1		AMD	PL 665	L1	36	5250	2		AMD	PL 646	1
36	2801-A	1-A		AMD	PL 665	L2	36	5250	3		AMD	PL 639	24
36	2801-A	4		AMD	PL 665	L3	36	5250	4		NEW	PL 646	2
36	2821			AFF	PL 665	E4	36	5250-A	3	C	AMD	PL 639	25
36	2821			RP	PL 665	E2	36	5250-A	3	D	AMD	PL 639	25
36	2822			AFF	PL 665	E4	36	5250-A	3	E	NEW	PL 639	26
36	2822			RP	PL 665	E2	36	5252			AMD	PL 639	27
36	2823			AFF	PL 665	E4	36	5253	1		AFF	PL 657	10
36	2823			RP	PL 665	E2	36	5253	1		AMD	PL 657	9
36	2824			AFF	PL 665	E4	36	5266			RP	PL 639	28
36	2824			RP	PL 665	E2	36	5276-A	1		AMD	PL 639	29
36	2825			AFF	PL 665	E4	36	5276-A	1		AFF	PL 694	E2
36	2825			RP	PL 665	E2	36	5276-A	1		AMD	PL 694	D62
36	2903-A			AMD	PL 502	E30	36	5284	1		AMD	PL 639	30
36	2903-B			AMD	PL 502	E30	36	5285	1		AMD	PL 639	31
36	3204-B	1		AMD	PL 639	10	36	6207	1	A1	AMD	PL 639	32
36	3219-A	2	G	AMD	PL 639	11	36	6213			AMD	PL 639	33
36	3223			RP	PL 639	12	36	6652	1		AFF	PL 639	35
36	3743			AMD	PL 639	13	36	6652	1		AMD	PL 639	34
36	4305			AMD	PL 639	14	36	6751			NEW	PL 669	5
36	4603	1		AMD	PL 502	C14	36	6752			NEW	PL 669	5
36	4603	9		AMD	PL 502	C15	36	6753			NEW	PL 669	5
36	4603	10		AMD	PL 502	C16	36	6754			NEW	PL 669	5
36	4603	12		AFF	PL 702	4	36	6755			NEW	PL 669	5
36	4603	12		NEW	PL 702	1	36	6756			NEW	PL 669	5
36	4604	1		AMD	PL 502	C17	36	6757			NEW	PL 669	5
36	4604	3		AMD	PL 502	C17	36	6758			NEW	PL 669	5
36	4604	4		AMD	PL 502	C17	36	6759			NEW	PL 669	5
36	4606			AMD	PL 502	C18	36	6760			NEW	PL 669	5
36	4606			AFF	PL 702	4	36	6761			NEW	PL 669	5
36	4606			AMD	PL 702	2							
36	4773			AMD	PL 661	1							
36	5122	1	G	AFF	PL 641	7	37B	3	1	D	AMD	PL 684	1
36	5122	1	G	AMD	PL 641	1	37B	152			AFF	PL 684	5
36	5122	1	H	AFF	PL 641	7	37B	152			NEW	PL 684	2
36	5122	1	H	AMD	PL 641	2	37B	153			NEW	PL 684	2
36	5122	1	I	AFF	PL 641	7	37B	154			NEW	PL 684	2
36	5122	1	I	RP	PL 641	3	37B	181			RP	PL 600	1
36	5122	2	G	AMD	PL 639	15	37B	181-A			NEW	PL 600	2
36	5122	2	H	AMD	PL 639	16	37B	182			AMD	PL 600	3
36	5122	2	I	NEW	PL 639	17	37B	183			AMD	PL 600	4

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37B	184			AMD	PL 600	5	38	484	4		AMD	PL 704	A10
37B	185	4		AMD	PL 600	6	38	484	4-A		AFF	PL 704	C2
37B	264			RPR	PL 684	3	38	484	4-A		NEW	PL 704	A11
							38	484-A			AMD	PL 700	7
38	106			AMD	PL 502	H48	38	485-A	1-B		AFF	PL 704	C2
38	321			AMD	PL 502	E30	38	485-A	1-B		NEW	PL 704	A12
38	321-A			AMD	PL 502	E30	38	485-A	1-C		AFF	PL 704	C2
38	322			AMD	PL 502	E30	38	485-A	1-C		NEW	PL 704	A12
38	323			AMD	PL 502	E30	38	486-A	3		AMD	PL 642	6
38	324			AMD	PL 502	E30	38	487-A	2		AFF	PL 704	C2
38	325			AMD	PL 502	E30	38	487-A	2		AMD	PL 704	A13
38	326			AMD	PL 502	E30	38	487-A	3		AFF	PL 704	C2
38	341-D	3	E	AMD	PL 642	1	38	487-A	3		AMD	PL 704	A14
38	341-D	3	F	AMD	PL 642	1	38	488			AFF	PL 704	C2
38	341-D	3	G	NEW	PL 642	2	38	488			AMD	PL 704	A15
38	342	2		AMD	PL 560	E3	38	488	3		AFF	PL 704	C2,3
38	342	5-A	C	AMD	PL 560	E4	38	488	3		RP	PL 704	A16
38	343-D	1		AMD	PL 656	A18	38	488	5		AFF	PL 704	C2
38	347-A	4	E	AMD	PL 560	I16	38	488	5		AMD	PL 704	A17
38	352	5-A		AMD	PL 642	3	38	488	8		AFF	PL 704	C2
38	352	5-A		AFF	PL 704	C2	38	488	8		RP	PL 704	A18
38	352	5-A		AMD	PL 704	A1	38	488	11		AMD	PL 659	2
38	361-A	1-D		AMD	PL 502	E32	38	488	11		AMD	PL 700	8
38	361-A	6		RPR	PL 642	4	38	488	14		AFF	PL 704	C2
38	402			AMD	PL 502	E32	38	488	14		AMD	PL 704	A19
38	414-A	1-C		NEW	PL 642	5	38	488	16		RPR	PL 625	A53
38	420-C			AFF	PL 704	C2	38	488	16		RP	PL 700	9
38	420-C			NEW	PL 704	B2	38	488	19		NEW	PL 625	A54
38	420-D			AFF	PL 704	C2	38	488	19		AFF	PL 704	C2
38	420-D			NEW	PL 704	B2	38	488	19		NEW	PL 704	A20
38	435			AMD	PL 625	B15	38	488	20		AFF	PL 704	C2
38	438-A	1-B		NEW	PL 542	1	38	488	20		NEW	PL 704	A20
38	480-B	10		RPR	PL 625	A51	38	489-A	1	F	RP	PL 700	10
38	480-Q	1	C	AMD	PL 502	E30	38	489-A	1		AFF	PL 704	C2
38	480-Q	3		RP	PL 700	1	38	489-A	1		AMD	PL 704	A21
38	480-Q	17		AMD	PL 575	1	38	489-D			AFF	PL 704	C2
38	480-Q	17		COR	RR 1	31	38	489-D			NEW	PL 704	A22
38	480-Q	20		NEW	PL 575	2	38	490	1		AMD	PL 700	11
38	480-U			RP	PL 625	A52	38	490-A	1		AMD	PL 700	13
38	480-X	5		AMD	PL 502	E32	38	490-A	1-A		NEW	PL 700	14
38	480-X	5		AMD	PL 575	3	38	490-A	2-B		NEW	PL 700	15
38	480-Y			NEW	PL 659	1	38	490-A	2-C		NEW	PL 700	15
38	481			AFF	PL 704	C2	38	490-A	2-D		NEW	PL 700	15
38	481			AMD	PL 704	A2	38	490-A	2-E		NEW	PL 700	15
38	482			AMD	PL 700	2	38	490-A	2-F		NEW	PL 700	15
38	482	2		AMD	PL 700	3	38	490-A	3		AMD	PL 700	16
38	482	2		AFF	PL 704	C2	38	490-A	5		AMD	PL 700	17
38	482	2		AMD	PL 704	A3	38	490-A	5-A		NEW	PL 700	18
38	482	2-B		AMD	PL 700	4	38	490-A	6		AMD	PL 700	19
38	482	3-C		AFF	PL 704	C2	38	490-A	6-A		NEW	PL 700	20
38	482	3-C		NEW	PL 704	A4	38	490-A	6-B		NEW	PL 700	20
38	482	4-A		RP	PL 700	5	38	490-A	6-C		NEW	PL 700	20
38	482	5		AFF	PL 704	C2	38	490-A	7		RPR	PL 700	21
38	482	5		AMD	PL 704	A5	38	490-B			RPR	PL 700	22
38	482	7		AFF	PL 704	C2	38	490-C			AMD	PL 700	23
38	482	7		RP	PL 704	A6	38	490-D			AMD	PL 700	24
38	483-A			AFF	PL 704	C2	38	490-E			AMD	PL 700	25
38	483-A			AMD	PL 704	A7	38	490-F			AMD	PL 700	26
38	484			AFF	PL 704	C2	38	490-G			AMD	PL 700	27
38	484			AMD	PL 704	A8	38	490-H	1		AMD	PL 700	28
38	484	2		AFF	PL 704	C2	38	490-H	3		NEW	PL 700	29
38	484	2		AMD	PL 704	A9	38	490-I	1		AMD	PL 700	30
38	484	3	D	RP	PL 700	6	38	490-J			AMD	PL 700	31
38	484	3	E	RP	PL 700	6	38	490-K			AMD	PL 700	32
38	484	4		AFF	PL 704	C2	38	490-L			RP	PL 700	33
							38	490-M			NEW	PL 700	34

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38	490-W			NEW	PL 700	35	38	1493			AMD	PL 642	21
38	490-X			NEW	PL 700	35	38	1705	1-A		RP	PL 656	A27
38	490-Y			NEW	PL 700	35	38	1705	9-B		NEW	PL 656	A28
38	490-Z			NEW	PL 700	35	38	1721			AMD	PL 656	A29
38	490-AA			NEW	PL 700	35	38	1722			AMD	PL 656	A30
38	490-BB			NEW	PL 700	35	38	1725			AMD	PL 656	A31
38	490-CC			NEW	PL 700	35	38	1726-A	4	A	AMD	PL 656	A32
38	490-DD			NEW	PL 700	35	38	1727			AMD	PL 656	A33
38	490-EE			NEW	PL 700	35	38	1905	1		AMD	PL 502	E32
38	549			AMD	PL 502	E32	38	2101-A	1		RP	PL 656	A34
38	584-A	5		RP	PL 642	7	38	2122	2		AMD	PL 588	2
38	840	1		AMD	PL 630	2	38	2123-B			NEW	PL 588	3
38	901			NEW	PL 630	3	38	2124-A			NEW	PL 588	4
38	902			NEW	PL 630	3	38	2125			RP	PL 656	A35
38	903			NEW	PL 630	3	38	2132	3		AMD	PL 552	1
38	904			NEW	PL 630	3	38	2133	2-A		AMD	PL 656	A36
38	905			NEW	PL 630	3	38	2133	3		AMD	PL 656	A37
38	906			NEW	PL 630	3	38	2133	7		NEW	PL 656	A38
38	907			NEW	PL 630	3	38	2134			AMD	PL 656	A39
38	908			NEW	PL 630	3	38	2137			AMD	PL 656	A40
38	1163			RPR	PL 636	1	38	2138	1		AMD	PL 656	A41
38	1252			RPR	PL 636	2	38	2139			RP	PL 656	A42
38	1303-C	1		RP	PL 656	A19	38	2140			AMD	PL 656	A43
38	1303-C	2-A		NEW	PL 573	1	38	2152	2	C	AMD	PL 502	E32
38	1303-C	2-B		NEW	PL 573	1	38	2154	2		AMD	PL 656	A44
38	1303-C	7	D	AMD	PL 656	A20	38	2154	3		AMD	PL 656	A45
38	1303-C	19-C		NEW	PL 656	A21	38	2156			RP	PL 588	5
38	1303-C	39		AFF	PL 625	C5	38	2156-A			NEW	PL 588	6
38	1303-C	39-B		NEW	PL 573	2	38	2159			AMD	PL 656	A46
38	1303-C	39-C		NEW	PL 573	2	38	2160	1		AMD	PL 656	A47
38	1304	4		AMD	PL 656	A22	38	2160	4		AMD	PL 656	A47
38	1304	13		AMD	PL 656	A23	38	2161			AMD	PL 656	A48
38	1304-B	4-A	D	AMD	PL 656	A24	38	2165	9		RP	PL 656	A49
38	1310-E	2	B	AMD	PL 502	E32	38	2166	2		RP	PL 656	A50
38	1310-F	1-B		AMD	PL 665	HH1	38	2170			AMD	PL 656	A51
38	1310-F	6		NEW	PL 642	8	38	2172			AMD	PL 656	A52
38	1310-N	6-D		AMD	PL 642	9	38	2173			AMD	PL 656	A53
38	1310-S	1		AMD	PL 656	A25	38	2174	2		AMD	PL 656	A54
38	1310-U			AMD	PL 656	A26	38	2175-A			AMD	PL 656	A55
38	1310-X	4		RPR	PL 588	1	38	2176			AMD	PL 656	A56
38	1310-AA			COR	RR 1	33	38	2177			AMD	PL 656	A57
38	1310-BB			NEW	PL 314	1	38	2191			AMD	PL 656	A58
38	1310-BB			RP	PL 579	1	38	2192			AMD	PL 656	A59
38	1310-BB			RNU	RR 1	33	38	2192	2		AMD	PL 656	A60
38	1316-A			AMD	PL 579	2	38	2192	3		AMD	PL 656	A60
38	1316-B			AMD	PL 579	3	38	2192	4		AMD	PL 656	A60
38	1316-B	2		AMD	PL 579	4	38	2193			AMD	PL 656	A61
38	1316-G			NEW	PL 578	1	38	2201			AMD	PL 656	A62,63
38	1316-L			NEW	PL 579	5	38	2204			AMD	PL 656	A64
38	1316-M			NEW	PL 579	5	38	2232			AMD	PL 656	A65
38	1318-B	1		AMD	PL 642	10	38	2232	4		AMD	PL 656	A66
38	1318-B	4		NEW	PL 642	11	38	2232	5		AMD	PL 656	A66
38	1319-G	3		NEW	PL 573	3	38	2235			AMD	PL 656	A67
38	1319-I	4-B		AMD	PL 642	12	38	2236			AMD	PL 656	A68
38	1319-O	2	A	AMD	PL 573	4	38	2451			AFF	PL 502	K2
38	1319-O	2	B	NEW	PL 573	5	38	2451			NEW	PL 502	K1
38	1319-Y			NEW	PL 573	6							
38	1453-A	2		AMD	PL 642	13							
38	1453-A	2	A	RP	PL 642	14	39A	102	4	A	AFF	PL 560	G29
38	1454-A	5		AMD	PL 502	E32	39A	102	4	A	AMD	PL 560	G21
38	1478			RP	PL 642	15	39A	106			AFF	PL 694	E2
38	1478-A			RP	PL 642	16	39A	106			AMD	PL 694	D63
38	1479			AMD	PL 642	17	39A	211			AMD	PL 560	G22
38	1480			RP	PL 642	18	39A	214	1	A	AFF	PL 560	G29
38	1480-A			AMD	PL 642	19	39A	214	1	A	AMD	PL 560	G23
38	1482	4		AMD	PL 642	20	39A	214	2		AFF	PL 560	G29

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39A	214	2		AMD	PL 560	G24
39A	214	3		AFF	PL 560	G29
39A	214	3		AMD	PL 560	G24
39A	214	4		AFF	PL 560	G29
39A	214	4		AMD	PL 560	G24
39A	352	6		AMD	PL 560	G25
39A	356	2		AMD	PL 560	G26
39A	403	3	C	AMD	PL 619	7
39A	403	5	F	AMD	PL 560	G27
39A	403	5	A	AMD	PL 594	2
39A	403	6	B	AMD	PL 594	3
39A	403	8	A	AMD	PL 594	4
39A	403	12		AMD	PL 594	5
39A	403	14		RPR	PL 594	6
39A	404	2	D	NEW	PL 594	7
39A	404	2	E	NEW	PL 594	7
39A	404	4	A	AMD	PL 594	8
39A	614	7	A	AMD	PL 560	G28

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Public Laws not allocated to the Revised Statutes of 1964 affected by the laws of the First Special Session and Second Regular Session of the 117th Legislature and the Revisor's Report 1995, Chapter 1.

YEAR CHAP SEC AFFECTED BY					YEAR CHAP SEC AFFECTED BY				
(TYPE)					(TYPE)				
1993	471	4	RP	PL	1995	665	I1		
1993	471	5	RP	PL	1995	665	I2		
1993	582	1	COR	RR	1995	1	35		
1993	591	3	RP	PL	1995	656	A69		
1993	591	4	RP	PL	1995	656	A69		
1993	600	A198	AMD	PL	1995	625	A55		
1993	712	8	AMD	PL	1995	698	2		
1993	712	8	AFF	PL	1995	698	4		
1993	712	9	AMD	PL	1995	698	3		
1993	712	9	AFF	PL	1995	698	4		
1993	732	A8	AMD	PL	1995	625	C5		
1993	737	5	AMD	PL	1995	625	A56		
1995	7	2	RP	PL	1995	625	C6		
1995	7	2	AFF	PL	1995	625	C7		
1995	65	A8	AMD	PL	1995	625	A57		
1995	99	D2	RP	PL	1995	665	AA1		
1995	99	D3	RP	PL	1995	665	AA1		
1995	99	D4	RP	PL	1995	665	AA1		
1995	99	D5	AMD	PL	1995	665	AA2		
1995	105	1	COR	RR	1995	1	36		
1995	173	2	RP	PL	1995	625	B16		
1995	173	2	AFF	PL	1995	625	B17		
1995	176	1	RP	PL	1995	609	4		
1995	176	3	RP	PL	1995	609	4		
1995	314	1	COR	RR	1995	1	34		
1995	332	A11	COR	RR	1995	1	37		
1995	332	G1	COR	RR	1995	1	38		
1995	332	G2	COR	RR	1995	1	39		
1995	367	1	COR	RR	1995	1	40		
1995	368	A15	AMD	PL	1995	502	G2		
1995	368	A3	AMD	PL	1995	502	I1		
1995	368	RR5	RP	PL	1995	503	2		
1995	368	RR5	AFF	PL	1995	503	4		
1995	368	W10	RP	PL	1995	503	1		
1995	368	W10	AFF	PL	1995	503	4		
1995	368	W12	AMD	PL	1995	509	2		
1995	368	W12	AFF	PL	1995	509	8		
1995	369	1	COR	RR	1995	1	14		
1995	369	2	COR	RR	1995	1	16		
1995	369	3	COR	RR	1995	1	18		
1995	369	4	COR	RR	1995	1	20		
1995	395	H9	AMD	PL	1995	691	8		
1995	395	Q7	AMD	PL	1995	509	3		
1995	395	Q7	AFF	PL	1995	509	8		
1995	397	126	AMD	PL	1995	625	A58		
1995	402	C11	COR	RR	1995	1	41		
1995	402	C12	COR	RR	1995	1	42		
1995	406	19	AMD	PL	1995	535	5		
1995	418	C4	COR	RR	1995	1	22		
1995	450	6	AMD	PL	1995	625	A59		
1995	455	44	NEW	PL	1995	695	5		
1995	455	44	AFF	PL	1995	695	7		
1995	465	C1	AMD	PL	1995	509	4		
1995	465	C1	AFF	PL	1995	509	8		
1995	466	D1	AMD	PL	1995	625	A60		
1995	488	5	COR	RR	1995	1	43		
1995	493	4	COR	RR	1995	1	32		
1995	502	C20	RPR	PL	1995	702	3		
1995	502	C20	AFF	PL	1995	702	4		
1995	560	A1	AMD	PL	1995	665	N3		
1995	560	I10	RP	PL	1995	665	BB1		
1995	560	I11	RP	PL	1995	665	BB1		
1995	560	I12	RP	PL	1995	665	BB1		
1995	560	I13	RP	PL	1995	665	BB1		
1995	560	I18	RP	PL	1995	665	BB1		
1995	560	I5	RP	PL	1995	665	BB1		
1995	560	I6	RP	PL	1995	665	BB1		
1995	560	I7	RP	PL	1995	665	BB1		
1995	560	I8	RP	PL	1995	665	BB1		
1995	560	I9	RP	PL	1995	665	BB1		
1995	560	K83	NEW	PL	1995	665	Q1		
1995	560	K83	AFF	PL	1995	665	Q3		
1995	560	L16	NEW	PL	1995	665	Q2		
1995	560	L16	AFF	PL	1995	665	Q3		

TABLE III

Public Laws exempted in revisions prior to 1964 affected by the laws of the First Special Session and the Second Regular Session of the 117th Legislature and the Revisor's Report 1995, Chapter 1.

(THERE WERE NONE)

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ADVISORY BOARDS & COMMISSIONSPUBLIC 608		AGRICULTURE	
ACCOUNTS & CONTROL BUREAU		IRRIGATION PONDS	
SEE ADMINISTRATIVE & FINANCIAL SERVICES DEPT		PERMITSPUBLIC 659	
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SEE SUPREME JUDICIAL COURT - CHIEF JUSTICE (WATHEN)		PILOT PROJECT & RESEARCHRESOLVE 78	
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SEE ALSO BUDGET BUREAU		PRODUCTIVITY REALIZATION TASK FORCE	
SEE ALSO GENERAL SERVICES BUREAU		REORGANIZATION (C)PUBLIC 502	
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