

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

PART B**Sec. B-1. Nonlapsing funds.**

Notwithstanding any other provision of law, \$145,546 of unencumbered balance remaining on June 30, 1997 in the Highway Fund State Police program in the Department of Public Safety may not lapse but must be carried forward to June 30, 1998 to be used in accordance with section 2 of this Part.

Sec. B-2. Maine State Police Training Academy. The Commissioner of Public Safety is authorized to allot \$145,546 made available through section 1 of this Part by financial order, upon the recommendation of the State Budget Officer and the approval of the Governor, in order to accelerate the start date of the Maine State Police Training Academy to no sooner than July 1, 1997. The commissioner may not start the academy between July 1, 1997 and September 8, 1997 unless the carry forward balance under section 1 of this Part is at least \$145,546.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1997.

Effective July 1, 1997.

CHAPTER 395**H.P. 833 - L.D. 1138**

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, 1997, June 30, 1998 and June 30, 1999

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, 1997; and

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

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

PART A

Sec. A-1. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal year ending June 30, 1997 to the departments listed, the following sums to carry out the purposes of this Part.

1996-97

**CONSERVATION,
DEPARTMENT OF**

Forest Fire Control - Division of

Personal Services	\$692,000
All Other	(182,500)

Provides for the appropriation of funds for the retroactive portion of approved reclassifications. This will result in an increase of General Fund undedicated revenue of \$203,800 is fiscal year 1997-98.

**DEPARTMENT OF
CONSERVATION
TOTAL**

509,500

**HUMAN SERVICES,
DEPARTMENT OF**

**State Supplement to Federal
Supplemental Security Income**

All Other	1,718,478
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Provides for the appropriation of funds in the Boarding Home Account to cover increased costs based on expenditure estimates.

**Intermediate Care - Payments to
Providers**

All Other	(1,718,478)
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Provides for the deappropriation of funds from the Nursing Facilities program based on expenditure estimates.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

-0-

**MENTAL HEALTH, MENTAL
RETARDATION AND
SUBSTANCE ABUSE
SERVICES, DEPARTMENT OF
Pineland Center**

Personal Services (97,000)

Provides for the deappropriation of funds to cover payment of the unbudgeted overtime in Freeport Towne Square and the unexpected overtime in Aroostook Residential Center as a result of training requirements.

Aroostook Residential Center

Personal Services 32,000

Provides for the appropriation of funds to cover unbudgeted overtime as a result of training requirements.

Freeport Towne Square

Personal Services 65,000

Provides for the appropriation of funds to cover unbudgeted overtime.

**DEPARTMENT OF MENTAL
HEALTH, MENTAL
RETARDATION AND
SUBSTANCE ABUSE SERVICES
TOTAL**

-0-

**SECTION
TOTAL APPROPRIATIONS** 509,500

Sec. A-2. Allocation. The following funds are allocated from the Federal Expenditures Fund for the fiscal year ending June 30, 1997 to carry out the purposes of this Part.

1996-97

**HUMAN SERVICES,
DEPARTMENT OF**

**Medical Care - Payments to
Providers**

All Other 3,000,000

Provides for the allocation of funds for Title XIX Medicaid Recoveries for Special Education and Section 504 Services.

**SECTION
TOTAL ALLOCATIONS** 3,000,000

Sec. A-3. Allocation. The following funds are allocated from Other Special Revenue for the fiscal year ending June 30, 1997 to carry out the purposes of this Part.

1996-97

**HUMAN SERVICES,
DEPARTMENT OF**

Medical Care Administration

All Other 270,000

Provides for the allocation of funds to cover payment of Maximus fees for recoveries received through Medicaid for Special Education and Section 504 Services.

**SECTION
TOTAL ALLOCATIONS** \$270,000

PART B

Sec. B-1. Supplemental appropriations from General Fund. There are appropriated from the General Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to the departments listed, the following sums to carry out the purposes of this Part.

1997-98 1998-99

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

Milk Commission

All Other \$1,691,667 \$1,208,333

Provides for the appropriation of funds to the Maine Milk Commission to be deposited in the Maine Milk Pool.

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

1,691,667

1,208,333

**CONSERVATION,
DEPARTMENT OF**

Forest Fire Control - Division of

Personal Services
All Other

201,524
(50,000)

204,084
(50,000)

Provides for the
appropriation of funds for
approved
reclassifications. This
will result in an increase
of General Fund
undicated revenue of
\$60,610 in fiscal year
1997-98 and \$61,634 in
fiscal year 1998-99.

**DEPARTMENT OF
CONSERVATION
TOTAL**

151,524

154,084

**HUMAN SERVICES,
DEPARTMENT OF**

**State Supplement to Federal
Supplemental Security Income**

All Other

295,724

Provides for the
appropriation of funds
through a transfer from
the Nursing Facilities
program to the State
Supplement to Federal
Supplemental Security
Income account to
provide benefits for the
period September 1, 1997
through March 31, 1998
to legal aliens living in
residential care facilities
and congregate housing
affected by the Federal
Responsibility and Work
Reconciliation Act.

Nursing Facilities

All Other

(295,724)

Provides for
deappropriation of funds
from the Nursing
Facilities program based
on expenditure estimates.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

-0-

**TRANSPORTATION,
DEPARTMENT OF**

**Third Port Development
Program**

All Other

250,000

Provides funds in
furtherance of the State's
policy of developing a
3-port strategy. These
funds are to be used for
the permitting and design
costs associated with the
development of a cargo
port at Mack Point.

Prior to filing for permits,
the Commissioner of
Transportation shall
report to the joint standing
committees of the
Legislature having
jurisdiction over
appropriations and
financial affairs and
transportation matters the
terms and conditions for
the design and financing
of a facility as mutually
agreed to by the
department and Mack
Point property owners
whose land is needed for
the development.

**DEPARTMENT OF
TRANSPORTATION
TOTAL**

250,000

**TREASURER OF STATE,
OFFICE OF**

Administration - Treasury

All Other

6,600

Capital Expenditures

55,000

TOTAL

61,600

Provides for the
appropriation of funds for
the purchase of
workstations and
partitions.

Debt Service - Treasury

All Other

(61,600)

Provides for the
deappropriation of funds
through the transfer of
funds from the Debt
Service Earnings account.

**OFFICE OF TREASURER OF
STATE
TOTAL**

-0-

SECTION
TOTAL APPROPRIATIONS 2,093,191 1,362,417

Sec. B-2. Allocation. The following funds are allocated from the Federal Expenditures Fund for fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

	1997-98	1998-99
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Air Quality Control		
Positions - Legislative Count	(5,000)	(5,000)
Personal Services	245,403	247,887
All Other	13,276	65,703
TOTAL	258,679	313,590
Provides for the allocation of funds to reinstate one Clerk Typist II position, one Environmental Specialist III position, one Conservation Aide position, one Environmental Specialist IV position and one Division Director position which were inadvertently transferred out of this program twice in Public Law 1997, chapter 24.		
Performance Partnership Grant		
Positions - Legislative Count	(-5,000)	(-5,000)
Personal Services	(245,403)	(247,887)
All Other	(13,276)	(65,703)
TOTAL	(258,679)	(313,590)

Provides for the deallocation of funds through the reduction of one Clerk Typist II position, one Environmental Specialist III position, one Environmental Specialist IV position, one Conservation Aide position and one Division Director position, which were inadvertently transferred to this program in Public Law 1997, chapter 24.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

-0-

-0-

**HUMAN SERVICES,
DEPARTMENT OF**
**Bureau of Child and Family
Services - Central**

All Other 1,195,700

Provides for the allocation of funds for the Maine Automated Child Welfare Information System to cover the increased federal share due to an increase in project costs. State share is provided through in-kind match.

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

All Other 2,009,458 1,955,105

Provides for the allocation of funds for the Foster Care Account, Title IV-E, to fully fund the DHSTI Contract with the University of Southern Maine.

**Medical Care - Payments to
Providers**

All Other 15,200,000

Provides for the allocation of funds for Title XIX Medicaid Recoveries for Special Education and Section 504 Services.

**DEPARTMENT OF HUMAN
SERVICES
TOTAL**

18,405,158

1,955,105

SECTION
TOTAL ALLOCATIONS 18,405,158 1,955,105

Sec. B-3. Allocation. The following funds are allocated from Other Special Revenue for fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

1997-98 1998-99

**AGRICULTURE, FOOD AND
RURAL RESOURCES,
DEPARTMENT OF**
**Marketing Services -
Agriculture**

Positions - Legislative Count	(.500)	(.500)
Personal Services	11,136	11,578
Provides for the allocation of funds through the transfer of one part-time Clerk Typist II position from the Quality Inspection program to correct an error in Public Law 1997, chapter 24. This position is associated with the newly created Federal/State Inspection Fund.		
Milk Commission		
All Other	1,691,667	1,208,333
Provides for the allocation of funds from a transfer from the Milk Commission General Fund account. These funds will be used to subsidize Maine dairy farmers.		
Quality Inspection		
Positions - Legislative Count	(-.500)	(-.500)
Personal Services	(11,136)	(11,578)
Provides for the deallocation of funds through the transfer of one part-time Clerk Typist II position to Marketing Services - Agriculture to correct an error made in Public Law 1997, chapter 24. This position is associated with the newly created Federal/State Inspection Fund.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	<u>1,691,667</u>	<u>1,208,333</u>
DEPARTMENT OF ENVIRONMENTAL HUMAN SERVICES,		
DEPARTMENT OF		
Bureau of Child and Family Services - Central		
All Other	850,000	
Provides for the allocation of funds for the Maine Automated Child Welfare Information System to cover the increased state share due to the reduction in federal matching from		

75% to 50% effective October 1, 1997.

Health - Bureau of

Positions - Legislative Count	(1,000)	(1,000)
Personal Services	49,500	50,500
All Other	23,200	14,000
Capital Expenditures	8,000	
TOTAL	<u>80,700</u>	<u>64,500</u>

Provides for the allocation of funds for one Nuclear Engineer Specialist position in the Nuclear Safety Office.

Medical Care Administration

All Other	1,368,000
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Provides for the allocation of funds to cover payment of Maximus fees for recoveries received through Medicaid for Special Education and Section 504 Services.

DEPARTMENT OF HUMAN SERVICES

TOTAL	<u>2,298,700</u>	<u>64,500</u>
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SECTION

TOTAL ALLOCATIONS	<u>3,990,367</u>	<u>1,272,833</u>
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Sec. B-4. Allocation. The following funds are allocated from the State Lottery Operations Fund for the fiscal years ending June 30, 1998 and June 30, 1999 to carry out the purposes of this Part.

1997-98 1998-99

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**Lottery Operations**

All Other	96,000	96,000
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Provides for an increase in the All Other allocation to fund advertising for the Heritage Fund Instant Ticket Games.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL

TOTAL	<u>96,000</u>	<u>96,000</u>
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SECTION

TOTAL ALLOCATION	<u>\$96,000</u>	<u>\$96,000</u>
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PART C

Sec. C-1. Abandoned property transfers.

Notwithstanding the Maine Revised Statutes, Title 33, section 1857, the administrator, who is the Treasurer of State, is authorized to withhold from transfer to General Fund undedicated revenue for the fiscal year ending June 30, 1997 an amount not to exceed \$1,500,000 to pay claims on abandoned property advertised in June of 1997. Any balance remaining unclaimed from this amount must be transferred to General Fund undedicated revenue no later than September 30, 1997.

Sec. C-2. Bureau of Information Services; restructure rates. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer shall calculate the amount of savings or costs that apply against each affected account in the All Other line category appropriations and allocations for fiscal years 1997-98 and 1998-99 of the affected General Fund and Highway Fund accounts based on the restructured rates charged by the Bureau of Information Services and shall transfer the calculated amounts between the affected accounts in each fund by financial order. These transfers are to be considered adjustments to appropriations and allocations. The State Budget Officer shall annually 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 September 30, 1997 and September 30, 1998.

Sec. C-3. Workers' compensation rate adjustments. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, the State Budget Officer in calculating the amount of savings in accordance with Public Law 1997, chapter 24, Part YY, sections 1 and 2 is authorized to transfer by financial order, any savings in excess of the identified amounts in sections 1 and 2 to affected accounts that are adversely impacted by the adjustment of workers' compensation rates. These transfers are to be considered adjustments to appropriations and allocations. The State Budget Officer shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs before June 15, 1998 and before June 15, 1999 on the implementation of this section.

Sec. C-4. Transfer from salary plan. The salary plan program in the Department of Administrative and Financial Services may be made available as needed in allotment by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the payment of premium overtime, in accordance with the federal Fair Labor Standards Act, to employees in the

Department of Corrections, Division of Probation and Parole in fiscal year 1997-98.

Sec. C-5. Block Grant allocation.

Notwithstanding the Maine Revised Statutes, Title 5, section 1669-A, or any other provision of law, for fiscal year 1997-98, the Department of Human Services may accept Federal Block Grant Funds for the following purposes in the event that the existing Medicaid program is terminated and a Medicaid Block Grant is established: the Child Care Block Grant, the Community Services Block Grant, Maternal and Child Health Block Grant, Preventive Health and Health Services Block Grant, Social Services Block Grant and the Title XIX Medicaid Program. The Governor may authorize the allocation and expenditure of such Block Grant funds for a period not to exceed 12 calendar months and shall seek the advice and consent of the joint Standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters prior to any expenditures of such funds.

PART D

Sec. D-1. 7 MRSA §441-B, as enacted by PL 1997, c. 24, Pt. OO, is amended by adding a new paragraph at the end to read:

Any interest earned on the revenue deposited in the fund only accrues to the fund for the fiscal year ending June 30, 1998.

PART E

Sec. E-1. 22 MRSA §14, sub-§1, as amended by PL 1991, c. 9, Pt. N, §1, is further amended to read:

1. Recovery procedures. When benefits are provided or will be provided to a beneficiary under the Medicaid program administered by the department pursuant to the United States Social Security Act, Title XIX, or under the Maine Health Program, section 3189, for the medical costs of injury, disease, disability or similar occurrence for which a 3rd party is, or may be, liable, the commissioner may recover from that party the reasonable value of the benefits provided. This right of recovery is separate and independent from any rights or causes of action belonging to a beneficiary under the Medicaid program or under the Maine Health Program. The Medicaid program and Maine Health Program are the payors of last resort and should provide medical coverage only when there are no other available resources. The Attorney General, or counsel ~~for any fiscal intermediary with the permission of~~ appointed by the Attorney General, may, to enforce this right, institute and prosecute legal proceedings directly against the 3rd party ~~or, pursuant to this subsection,~~

against the recipient, in the appropriate court, ~~either in the name of the commissioner or in the name of the injured person, beneficiary, guardian, personal representative, estate or survivor.~~

In addition to the right of recovery set forth in this subsection, the commissioner must also be subrogated, to the extent of any benefits provided under the Medicaid program or under the Maine Health Program, to any cause of action or claim that a beneficiary has against a 3rd party who is or may be liable for medical costs incurred by or on behalf of the beneficiary. The Attorney General, or counsel appointed by the Attorney General, to enforce this right may institute and prosecute legal proceedings in the name of the injured person, beneficiary, guardian, personal representative, estate or survivor. If a recipient of medical assistance receives a settlement or award from a 3rd party, the settlement or award is subject to disbursement as provided in subsection 2-F. If necessary to enforce the commissioner's right of recovery, the Attorney General, or counsel appointed by the Attorney General, may institute legal proceedings against any beneficiary who has received a settlement or award from a 3rd party, subject to the right of equitable apportionment set forth in subsection 2-F.

The commissioner may compromise, or settle and execute a release of, any claim or waive any claim, in whole or in part, if the commissioner determines the collection will not be cost-effective.

~~In any case in which 3rd party liability is found under this section, the commissioner shall be subrogated to the rights of the individual for whom medical assistance was made available.~~

PART F

Sec. F-1. 22 MRSA §664, sub-§5, as amended by PL 1993, c. 664, §6, is further amended to read:

5. Fees. Each nuclear power plant licensee whose operations are monitored under this chapter shall pay a fee to the State Nuclear Safety Inspector to the permanent fund established in section 680, subsection 7. The fee must take the form of a yearly payment indicated in this subsection for the fiscal year from the fund established in section 680, subsection 7, for the full cost of the on-site inspection program, including the cost to the State for personnel and fringe benefits.

The State Nuclear Safety Inspector fee is ~~\$100,000~~ \$180,000 annually.

Sec. F-2. 22 MRSA §680, sub-§1, as amended by PL 1993, c. 664, §11, is further amended to read:

1. Nuclear power plants. The annual registration fee for operating nuclear power plants is ~~\$80,000~~ \$100,000.

PART G

Sec. G-1. Allocation. The following funds are allocated from the Federal Block Grant Fund to carry out the purposes of this Part.

	1997-98	1998-99
HUMAN SERVICES, DEPARTMENT OF		
Administration - Social Services		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$49,321	\$49,989
Provides funds due to the transfer of one position from the Social Services Block Grant, Purchased Social Services.		
Community Services Block Grant		
All Other	931,208	154,714
Provides funds due to an increase in the Community Services Block Grant of \$400,000 in fiscal year 1996-97 and \$531,208 in fiscal year 1997-98 based on an increase in the grant award. The fiscal year 1998-99 grant award increase is \$154,714.		
Purchased Social Services		
All Other	113,562	108,805
Provides funds due to an increase in Social Services Block Grant based on an increase in the grant awards for fiscal year 1997-98 and fiscal year 1998-99.		
Purchased Social Services		
Positions - Legislative Count	(-1,000)	(-1,000)
All Other	(49,321)	(49,989)
Provides for the transfer of one position to the Social Services Block Grant, Administration - Social Services.		

DEPARTMENT OF HUMAN
SERVICES

TOTAL	\$1,044,770	263,519
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SECTION

TOTAL ALLOCATIONS	\$1,044,770	\$263,519
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PART H

Sec. H-1. 5 MRSA §13090-J is enacted to read:

§13090-J. Tourism Cooperative Marketing Fund

1. Statement of purpose. The Tourism Cooperative Marketing Fund is established to allow the Office of Tourism and Community Development to accept private donations to be used in support of special public and private marketing opportunities.

2. Tourism Cooperative Marketing Fund. The Tourism Cooperative Marketing Fund, referred to in this section as the "fund," is established as an interest-bearing account. All charges collected pursuant to this section must be deposited into the fund. All interest earned by the account becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. Revenue to the fund is collected, managed, deposited, invested and disbursed by the Office of Tourism and Community Development.

3. Revenue sources. For purposes of funding its activities, the Office of Tourism and Community Development is authorized to accept donations from private sources and shall consult with donors in making distribution determinations.

4. Administrative costs. The Office of Tourism and Community Development may retain a portion of the total donations collected equivalent to the office's administrative costs incurred in the collection and remission of the donations, not to exceed 2% of the total donations collected.

5. Reporting requirements. The Office of Tourism and Community Development shall submit a report by February 1, 1998 and February 1st of each subsequent year to the joint standing committees of the Legislature having jurisdiction over economic development matters and appropriations and financial affairs identifying the amount collected and how the fund was disbursed by the office.

6. Repeal. This section is repealed on July 1, 2007. The Office of Tourism and Community Development shall provide its recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over economic development matters concerning the need for extending authorization of the fund.

Sec. H-2. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

	1997-98	1998-99
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Office of Tourism and Community Development		
All Other	\$200,000	\$200,000
Provides funds to be used in support of special public and private marketing opportunities.		

PART I

Sec. I-1. 23 MRSA c. 19, sub-c. VIII is enacted to read:

SUBCHAPTER VIII**STATE INFRASTRUCTURE BANK****§1853. State infrastructure bank; finding**

The legislature finds that new financing mechanisms are necessary to provide greater flexibility and additional funds for needed transportation infrastructure projects in the State. The creation of a financing mechanism, in conformance with the National Highway System Designation Act of 1995, Public Law 104-59, Section 350, relating to a state infrastructure bank program will enable the State, counties and municipalities to use federal and state highway funds to construct transportation projects eligible for assistance under Section 350. These funds must be deposited into specific accounts in the department. From these accounts, loans may be made to counties and municipalities for eligible transportation projects.

For purposes of this subchapter, a project is an "eligible transportation project" and is "eligible for assistance" when it complies with the eligibility criteria established in the National Highway System Designation Act of 1995, Public Law 104-59, Section 350.

§1854. State infrastructure bank created

The state infrastructure bank is created as a revolving fund in the department, to be administered by the department and used for the purposes described in this subchapter. The fund consists of certain federal highway funds and state highway funds and other funds eligible for deposit under applicable federal law;

payments received by the department in connection with the state infrastructure bank; investment earnings on money in state infrastructure bank accounts; and other funds as may be provided by law. Separate accounts may be established within the state infrastructure bank if required for its proper administration.

The fund is a nonlapsing fund. All monies accruing to the credit of the fund must be allocated by the Legislature and expended by the department to effectuate the purposes of this subchapter. Money available in the fund may not be used to hire staff for the department.

§1855. Loans

The Commissioner of Transportation shall use the state infrastructure bank to make loans to counties and municipalities upon such terms as the commissioner shall determine, including secured and unsecured loans, and in connection with the secured and unsecured loans, to enter into loan agreements, subordination agreements and other agreements; accept notes and other forms of obligation to evidence the indebtedness, and mortgages, liens, pledges, assignments or other security interest to secure the indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests or liens or encumbrances, and take such actions as are appropriate to protect the security and safeguard against losses, including foreclosure and the bidding upon and purchase of property upon foreclosure or other sale. Repayments of a federal share loan may be obligated by the commissioner for any transportation purpose, including the reloaning of such repaid funds for other projects. Reloaned funds are considered state loans, not federal share loans.

The commissioner may adopt policies and procedures for the implementation and exercise of the authority granted by this section, including policies and procedures for receiving, reviewing, evaluating and selecting projects for which financial assistance will be approved.

Sec. I-2. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

1997-98

TRANSPORTATION, DEPARTMENT OF

State Infrastructure Bank

All Other	\$4,900,000
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Provides for the allocation of funds to establish a state infrastructure bank. Funds will be used to satisfy financial commitments previously established with the Highway and Bridge Improvement Program, the Town Way Bridge Program and the Collector Road Development Award Program.

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

	1997-98	1998-99
TRANSPORTATION, DEPARTMENT OF		
State Infrastructure Bank		
All Other	\$25,000	\$200,000
Capital Expenditures	75,000	800,000
Provides for the allocation of funds to be used to fund infrastructure projects that will be financed through repayments to the state infrastructure bank program.		
DEPARTMENT OF TRANSPORTATION TOTAL		
	\$100,000	\$1,000,000

PART J

Sec. J-1. 23 MRSA §4420, as amended by PL 1993, c. 649, Pt. J, §1, is further amended to read:

§4420. Purpose

The Maine Port Authority, as established by Title 5, section 12004-F, subsection 8, is ~~constituted a public agency of a body both corporate and politic in the State established for the general purpose of~~ acquiring, constructing and operating any kind of port terminal facility and railroad facility within the State with all the rights, privileges and power necessary. Oil pipelines and other oil off-loading facilities are limited to sites in Portland harbor.

It is declared that the purposes of this chapter are public and that the authority is performing a governmental function in carrying out this chapter.

PART K

Sec. K-1. Department of Mental Health, Mental Retardation and Substance Abuse Services. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Department of Mental Health, Mental Retardation and Substance Abuse Services is authorized to transfer \$120,000 from unexpended Personal Services appropriations in its various General Fund accounts for the fiscal year ending on June 30, 1997 to the Risk Management Fund in the Department of Administrative and Financial Services not later than June 30, 1998.

PART L

Sec. L-1. Appropriations. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1997-98

**ENVIRONMENTAL
PROTECTION,
DEPARTMENT OF**

Land and Water Quality

Personal Services	\$200,000
Provides for the journaling of personnel costs from the Maine Environmental Protection Fund to cover anticipated shortfalls.	

Sec. L-2. Loan repayment. Notwithstanding any other provision of law, the scheduled repayment of \$46,000 annually for fiscal year 1997-98 from the Maine Environmental Protection Fund to the Groundwater Oil Clean-up Fund is deferred until fiscal year 1999-2000. Nothing in this section may be construed to delay or alter the repayment due in fiscal year 1998-99.

PART M

Sec. M-1. 17-A MRSA §1202, sub-§1-A is enacted to read:

1-A. Notwithstanding subsection 1, the period of probation for a person convicted under chapter 11 or section 854, excluding subsection 1, paragraph A, subparagraph (1), may be extended by up to 4 years for a Class A crime, by up to 2 years for a Class B or Class C crime and by up to one year for a Class D or Class E crime if the court finds that the additional time is needed to provide sex-offender treatment to the person or to protect the public from the person because, based on one or more of the factors in section

257, the court determines that the person is a high-risk sex offender.

PART N

Sec. N-1. Rulemaking. Resolved: That the Commissioner of Human Services shall adopt rules amending the principles of reimbursement for nursing facilities to apply an occupancy adjustment to facilities with 60 or fewer beds when the annual level of occupancy is less than 85%. Rules adopted pursuant to this authority are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

Sec. N-2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Nursing Facilities

All Other	\$37,245
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Provides funds due to a change in the occupancy adjustment for nursing facilities with 60 or fewer beds.

Sec. N-3. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1998-99

**HUMAN SERVICES,
DEPARTMENT OF**

Nursing Facilities

All Other	\$72,428
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Provides funds due to a change in the occupancy adjustment for nursing facilities with 60 or fewer beds.

PART O

Sec. O-1. 4 MRSA §1057, sub-§2-A, as enacted by PL 1995, c. 668, §1, is amended to read:

2-A. Surcharge imposed. A surcharge of ~~10%~~ 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. All funds collected as a result of this surcharge must be deposited monthly in the Government Operations Surcharge Fund. One-sixth of the surcharge collected must be paid to the Maine Criminal Justice Academy to supplement current funds for training and recertification of part-time and full-time law enforcement officers. This subsection takes effect January 1, 2001 or when the funding for the operation of the Judicial Department's computer system lapses, whichever occurs first.

Sec. O-2. 25 MRSA §2803-A, sub-§1, as amended by PL 1993, c. 744, §2, is further amended to read:

1. Training and certification of all law enforcement officers in State. In accordance with this chapter, to establish training and certification standards for all law enforcement officers, set requirements for board-approved courses, prescribe curriculum and certify both graduates of board-approved courses and persons for whom the board has waived the training requirements of this chapter. Certification must be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance.

No later than March 1, 1995, the board shall design joint training and certification standards combining into a single basic training course the present State Police course and the basic municipal and county course. The joint training course must equal or exceed any curriculum training requirements of the State Police effective on December 31, 1994. The board shall report its recommendations and the necessary implementing legislation for a basic training course to the Legislature by April 1, 1995. The Legislature must approve the associated costs of the joint training course before it may be implemented.

Until joint training and certification standards are implemented pursuant to this subsection, the Chief of the State Police shall approve the basic training requirements for enlisted personnel of the State Police for graduation from the academy. The board shall certify State Police enlisted personnel who meet the approved basic training requirements.

No later than July 1, 1998, the board shall adopt rules identifying the permissible duties of part-time law enforcement officers who have completed the training courses described in section 2804-B. The rules adopted are major substantive rules for the purposes of Title 5, chapter 375, subchapter II-A and must be implemented no later than December 31, 2001;

Sec. O-3. 25 MRSA §2804-B, sub-§§1 and 3, as enacted by PL 1989, c. 521, §§5 and 17, are amended to read:

1. Required. A person ~~shall~~ may not serve as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty until certified by the board as satisfying all preservice training requirements.

3. Certification. The board shall certify each person who meets the preservice training standards as eligible to serve as a law enforcement officer with the power to make arrests and the authority to carry a firearm in the course of duty, subject to ~~additional certification as required by this chapter~~ annual recertification training as prescribed by the board.

Sec. O-4. 25 MRSA §2804-C, sub-§1, as amended by PL 1993, c. 744, §6, is further amended to read:

1. Required. As a condition to the continued employment of any person as a full-time law enforcement officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of employment, a basic training course approved by the board. Thereafter, as a condition of continued employment as a full-time law enforcement officer, the officer must satisfactorily maintain the basic certification by completing the recertification requirements prescribed by the board. The board, under extenuating and emergency circumstances in individual cases, may extend that period for not more than 90 days. The board also, in individual cases, may waive the basic training requirement when the facts indicate that an equivalent course has been successfully completed. This section does not apply to any person employed as a full-time law enforcement officer by a municipality on September 23, 1971 or by a county on July 1, 1972.

Sec. O-5. 25 MRSA §2804-E, sub-§1, as amended by PL 1993, c. 744, §7, is further amended to read:

1. Required. As a condition to the continued employment of a person as a law enforcement officer with the power to make arrests or the authority to carry a firearm in the course of duty by a municipality, county, the State or other nonfederal employer, that person must successfully complete ~~a minimum number of hours of in-service recertification~~ training as prescribed by the board.

Sec. O-6. 25 MRSA §2806, sub-§1, ¶A, as amended by PL 1989, c. 521, §§9 and 17, is repealed and the following enacted in its place:

A. Shall, no later than March 1st of every year, beginning in 2001, review the certification of all law enforcement and corrections officers and decertify those individuals who do not meet certification or recertification requirements;

Sec. O-7. Part-time law enforcement officer. The Board of Trustees of the Maine Criminal Justice Academy shall submit legislation January 1, 1999 to add a definition of the term "part-time law enforcement officer" to the Maine Revised Statutes, Title 25, section 2801-A.

PART P

Sec. P-1. 37-B MRSA §601, as amended by PL 1997, c. 98, §1, is further amended to read:

§601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in ~~southern Maine Scarborough~~, a home not to exceed ~~60~~ 40 beds located in ~~Aroostook County Caribou~~, a home located in Bangor not to exceed 120 beds, of which 40 beds are dedicated to senile dementia patients, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to senile dementia patients, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Board of Trustees of the Maine Veterans' Homes shall plan and develop ~~these additional homes and may use the Machias home~~ using any funds available for those purposes that purpose, except for the Augusta facility's funded depreciation account. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces during wartime, including the Korean Conflict, the Vietnam War and the Persian Gulf War for no less than 180 days.

Sec. P-2. 37-B MRSA §607, as amended by PL 1995, c. 211, §1, is further amended to read:

§607. Admission

Veterans desiring admission to the home must apply on forms prescribed by the administrator. ~~Admission may be granted by the administrator only~~

~~to eligible~~ The administrator shall grant admission only to veterans who were residents of Maine at the time of their entry into the United States Armed Forces or who are residents of Maine at the time of application, and to the spouses, widows or widowers of eligible veterans, provided that suitable facilities are available. Parents of armed services members who are killed in action or die as a consequence of wounds received in battle are also eligible, as so called "gold star" parents, for admission. Admission must be granted when provisions of the rules are met, when there is a vacancy and in order of application, unless otherwise provided in the rules governing private payment, Medicare and Medicaid eligibility to entitled persons are met. For the purposes of this section, "eligible veteran" includes a person who served on active duty in the United States Armed Forces at any time during the period from December 22, 1961 to August 5, 1964.

Sec. P-3. 37-B MRSA §609, as enacted by PL 1983, c. 460, §3, is repealed.

Sec. P-4. 37-B MRSA §610, as enacted by PL 1983, c. 460, §3, is amended to read:

§610. Support and maintenance fund

All funds received by the ~~Treasurer of State~~ Maine Veterans' Home, including federal Veterans' Administration stipend funds, must be held by him in a permanent fund to be used as required by the administrator for the support and maintenance of the ~~home homes~~. A percentage of these funds approved by the board of trustees ~~shall~~ must be placed in reserve for capital improvement expenditures. The board of trustees shall operate the ~~home homes~~, when constructed, as ~~a~~ self-liquidating project projects until all the bonds issued as provided by this chapter are retired. Any funds received in excess of that necessary for the support and maintenance of the ~~home homes~~, the capital reserve fund and funds necessary for retirement of any outstanding bonds or indebtedness as those payments become due ~~shall lapse~~ must be transferred to the Treasurer of State where they are to be applied as credits to the General Fund. The Department of Human Services ~~shall~~ may not modify its principles of reimbursement for long-term care facilities to specifically exclude reimbursement for the depreciation of the assets created with federal or state grants.

Sec. P-5. 37-B MRSA §610-A is enacted to read:

§610-A. Stipend funds

The Maine Veterans' Homes retain as direct income revenue any stipend funds they may receive from the federal Veterans' Administration for the homes' entire eligible resident population.

The Department of Human Services may neither receive the proceeds nor require the application of stipend funds in the Medicare or Medicaid rate justification submissions by the Maine Veterans' Homes.

Sec. P-6. 37-B MRSA §610-B is enacted to read:

§610-B. Use of stipend funds

The Maine Veterans' Homes shall expend stipend funds received pursuant to section 610-A first on the payment of debt service on, or the setting aside of funds irrevocably to repay as soon as possible, the outstanding principal amount of the bonded indebtedness of the homes and the bonded indebtedness of the State on which the homes are obligated to pay debt service. Any interest earned on funds set aside irrevocably to repay such bonded indebtedness must be credited to the General Fund.

Annually, at the beginning of each fiscal year, the Maine Veterans' Homes shall prepare and file with the Department of Human Services a written work plan for the use of its anticipated financial resources including stipend funds in that fiscal year.

The Board of Trustees of the Maine Veterans' Homes in conjunction with the Commissioner of Human Services may agree to develop additional requirements regarding operation of the homes as needed.

Sec. P-7. Study on possible conversion of beds. Prior to June 30, 1998, the Maine Veterans' Homes, in consultation with the Department of Human Services, shall complete a comprehensive study of the possible conversion of the use of beds at its various facilities from skilled nursing care to residential care.

Sec. P-8. Undedicated revenue to the General Fund; Maine Veterans' Homes. Notwithstanding any other provision of law, the Maine Veterans' Homes must deposit, as General Fund undedicated revenue, \$835,178 no later than June 1, 1998 and \$1,138,665 no later than June 1, 1999.

Sec. P-9. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
HUMAN SERVICES, DEPARTMENT OF		
Medical Care - Payments to Providers		
All Other	\$835,178	\$1,138,665

Provides funds to support
totally state-funded
residential care services.

PART Q

Sec. Q-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**

Salary Plan

Personal Services (\$300,000)

Deappropriates funds no
longer required.

Retirement - Federal Recovery

All Other (300,000)

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

(\$600,000)

**TOTAL APPROPRIATIONS
SECTION Q-1**

(\$600,000)

PART R

Sec. R-1. 20-A MRSA §15613, sub-§17 is enacted to read:

17. Unobligated balances. Unobligated balances from amounts appropriated for general purpose aid for local schools may not lapse but must be redistributed to school administrative units in the same fiscal year. The commissioner shall make the final determination of the total amount of unobligated funds and must redistribute 75% of those funds to program costs and 25% of those funds to out-of-district placement costs. To redistribute the 75% portion to the state share of program costs, the reduction percentage originally calculated for program costs pursuant to section 15603, subsection 26-A, paragraph F must be reduced by an amount sufficient to distribute the 75% share. The reductions in these percentages apply to all program cost areas except the transportation operating cost allocation.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect July 1, 1997.

Effective July 1, 1997.

CHAPTER 396

S.P. 367 - L.D. 1226

An Act to Amend the Retirement System as it Pertains to Qualified Survivors

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

Sec. 1. 5 MRSA §17852, sub-§4, ¶A, as amended by PL 1993, c. 387, Pt. A, §11, is further amended by enacting subparagraph (3) to read:

(3) Notwithstanding subparagraph (2), the benefit to which a surviving spouse is entitled under subparagraph (2) may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order.

Sec. 2. 5 MRSA §17852, sub-§5, ¶C is enacted to read:

C. Notwithstanding paragraph B, the benefit to which a surviving spouse is entitled under paragraph B may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order.

Sec. 3. 5 MRSA §17852, sub-§6, ¶C is enacted to read:

C. Notwithstanding paragraph B, the benefit to which a surviving spouse is entitled under paragraph B may be awarded in whole or in part to another person or persons under a domestic relations order that is determined to be a qualified domestic relations order under section 17059 and, when so awarded, the benefit must be distributed in accordance with the qualified domestic relations order.

Sec. 4. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act

applies to cases in progress where the retiree is still alive and the issue of survivorship has not yet arisen.

See title page for effective date.

CHAPTER 397

S.P. 532 - L.D. 1637

An Act to Authorize Interest-only Interim Financing in the School Construction Funding Process

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

Sec. 1. 20-A MRSA §15905, sub-§7 is enacted to read:

7. Interest-only interim local financing.

Notwithstanding any provision of law or rule to the contrary, the state board may accelerate the dates on which it grants concept approval and funding approval for a school construction project that has been placed on the special priority list of the state board on the condition that the school administrative unit provide interest-only interim local financing for the project in accordance with this subsection. The period of interest-only interim local financing must be determined by the state board at the time concept approval is granted for a project and must be based on the time difference between the date that final funding approval is expected to be granted on an accelerated basis and the date that final funding approval would have been expected to be granted in the normal course. The period of interim local financing for a project may not exceed 5 years.

Notwithstanding any provision of law or rule to the contrary, a school administrative unit, including a school administrative unit established by private and special law, authorized to issue securities for school construction purposes may issue its securities for school construction purposes on an interest-only basis during a period of interest-only interim local financing approved by the state board in accordance with this subsection. The period of interest-only interim local financing must precede, and be in addition to, the periods for interest payments and principal payments otherwise established pursuant to the school construction rules of the state board. The length of the period of interest-only interim local financing and the length of the debt service schedule otherwise established must be clearly stated on the face of the securities.

The interest-only payments made by a school administrative unit during the period of interim financing must be paid from local funds without state participation and may not be included in the unit's