

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

## CHAPTER 683

## S.P. 803 - L.D. 2173

**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. 9-B MRSA §352, sub-§3**, as amended by PL 1997, c. 398, Pt. G, §2, is further amended to read:

**3. Vote of investors.** The plan of merger or consolidation, as approved by the superintendent, must be submitted to the investors of the participating institutions for their approval at an annual meeting, or at a special meeting called for that purpose, in accordance with section 351, subsection 4 and the following provisions.

~~Notice required pursuant to section 351, subsection 4 must state that dissenting investors will be entitled to payment only for the value of those equity interests that are voted against approval of the plan. Published notice may be waived if written waivers are received from the holders of 2/3 of the outstanding voting equity interests of each class stock of each participating institution.~~

Notice required pursuant to section 351, subsection 4 must state that dissenting investors will be entitled to payment only for the value of those equity interests that are voted against approval of the plan. Published

notice may be waived if written waivers are received from the holders of 2/3 of the outstanding voting equity interests of each class stock of each participating institution.

**Sec. A-2. 9-B MRSA §1015, sub-§1, ¶E**, as amended by PL 1997, c. 182, Pt. A, §11 and c. 398, Pt. K, §10, is repealed and the following enacted in its place:

E. Authority for any financial institution holding company, foreign bank or foreign bank holding company controlling a Maine financial institution to engage in a closely related activity in Maine, or acquisition or establishment of a subsidiary in Maine to engage in a closely related activity.

**Sec. A-3. 9-B MRSA §1225, sub-§1**, as enacted by PL 1997, c. 398, Pt. J, §2, is amended to read:

**1. Percentage of common stock.** A person who owns 25% ~~of~~ or more of the merchant bank's common stock or similar equity capital;

**Sec. A-4. 10 MRSA §948**, as enacted by PL 1997, c. 556, §3, is repealed and the following enacted in its place:

**§948. Administration of fund**

**1. Administration of fund.** The Board of Trustees of the University of Maine System shall administer the fund. The board may utilize the assets of the fund to carry out and effectuate the purposes, duties and responsibilities of this chapter, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Invest in applied research and development in the target areas within the University of Maine System; and

(2) Support the development of private enterprise based upon research and development performed within the University of Maine System;

B. Receiving money from any public or private source to augment state contributions to the fund;

C. Approving an annual budget for the fund and investing and expending money from within the fund;

D. Contracting with public entities as necessary to further the directives of this section;

E. Carrying forward any unexpended state appropriations into succeeding fiscal years;

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature setting forth:

(1) The operations and accomplishments of the fund during the fiscal year; and

(2) The assets and liabilities of the fund at the end of its most recent fiscal year; and

G. Protecting all intellectual property in accordance with the "University of Maine System Statement of Policy Governing Patents and Copyrights," including, but not limited to, proprietary information contained in proposals, grants, contracts or other legal agreements. Publication of information may be reasonably delayed until appropriate measures have been taken to protect the intellectual property.

**Sec. A-5. 11 MRSA §8-1102, sub-§(1), ¶(i)**, as enacted by PL 1997, c. 429, Pt. B, §2, is amended to read:

(i) "Financial asset," except as otherwise provided in section 8-1103, means:

- (i) A security;
- (ii) An obligation of a person or a share, participation or other interest in a person or in property or an enterprise of a person that is, or is of a type, dealt in or traded on financial markets or that is recognized in any area in which it is issued or dealt in as a medium for investment; or
- (iii) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

~~As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement.~~

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement.

**Sec. A-6. 14 MRSA §6005, first ¶**, as amended by PL 1997, c. 151, §2 and c. 336, §1, is repealed and the following enacted in its place:

When the defendant is defaulted or fails to show sufficient cause, judgment must be rendered against the defendant by the District Court for possession of the premises. Seven calendar days after the judgment is entered, the court shall issue the writ of possession to remove the defendant. The writ may be served by a sheriff or a constable. If at least 3 good faith efforts on 3 different days have been made to serve the defendant, service may be accomplished by both mailing the notice by first-class mail to the defendant's last known address and leaving the writ of possession at the defendant's last and usual place of abode. A writ of possession may not issue in any case in which the ground for termination of the tenancy was rent arrearage and the defendant paid the amount necessary to reinstate the tenancy as provided by section 6002.

**Sec. A-7. 17 MRSA §2802**, as amended by PL 1997, c. 540, §4, is further amended to read:

**§2802. Miscellaneous nuisances**

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture ~~which that~~, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals; or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect; or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; imprudent operation of a watercraft as defined in Title 12, section 7801, subsection 11-A; unlawfully diverting ~~it the water of a~~ river, stream, pond or aquifer from its natural course or state; to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise; of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, ~~worn out~~ worn-out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation; either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are ~~declared to be~~ public nuisances.

**Sec. A-8. 18-A MRSA §9-204, sub-§(b)**, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

(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.

**Sec. A-9. 18-A MRSA §9-314**, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

**§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~~ article 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.

**Sec. A-10. 19-A MRSA §2351, sub-§1**, as amended by PL 1997, c. 466, §19 and affected by §28 and as amended by c. 537, §45 and affected by §62, is repealed and the following enacted in its place:

**1. Subrogation of support rights.** If a 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 support 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 to subrogate itself to the rights of the payee and to be treated as a party in any further proceedings regarding the support order. Upon notice to the parties, the department may order an obligor or other payor of child support to redirect payments to the department if payments are owed to the department or another state pursuant to an assignment of support rights or if payments are otherwise required to be made through the department. A person who knowingly violates the department's order commits a civil violation for which the court may adjudge a forfeiture not to exceed \$500 plus interest, attorney's fees and costs.

**Sec. A-11. 20-A MRSA §13011, sub-§1, ¶D**, as amended by PL 1997, c. 452, §4 and c. 553, §2, is repealed and the following enacted in its place:

D. Seek a revocation of a certificate or authorization in the Administrative Court;

**Sec. A-12. 21-A MRSA §1052, sub-§4, ¶A**, as enacted by PL 1985, c. 161, §6, is amended to read:

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift ~~of~~ money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

**Sec. A-13. 24-A MRSA §2848, sub-§1-C, ¶B**, as enacted by PL 1997, c. 445, §20 and affected by §32, is amended to read:

B. Whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan or health insurance coverage offered in connection with any such plan;

**Sec. A-14. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1997, c. 349, §§1 and 2 and c. 431, §§1 and 2 and corrected by RR 1997, c. 1, §§23 and 24, is further amended by repealing and replacing subparagraph (39) to read:

(39) 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;

**Sec. A-15. 26 MRSA §2101**, as enacted by PL 1987, c. 356, is amended to read:

**§2101. Definitions**

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

**1. Fire department.** "Fire department" means a municipal fire department, as defined in Title ~~30~~ 30-A, section ~~3774~~ 3151, subsection 1, or a ~~voluntary~~ volunteer fire association, as defined in Title ~~30~~ 30-A, section ~~3774~~ 3151, subsection 3.

**2. Firefighter.** "Firefighter" means a municipal firefighter, as defined in Title ~~30~~ 30-A, section ~~3774~~ 3151, subsection 2, or a volunteer firefighter, as defined in Title ~~30~~ 30-A, section ~~3774~~ 3151, subsection 4.

**Sec. A-16. 28-A MRSA §1205, sub-§1**, as amended by PL 1997, c. 373, §110 and c. 414, §1, is repealed and the following enacted in its place:

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

**Sec. A-17. 29-A MRSA §512, sub-§1, ¶B**, as repealed and replaced by PL 1997, c. 437, §11, is amended to read:

B. The fee is \$10 for each semitrailer, and the fee is \$5 for each trailer of not more than 2,000 pounds gross vehicle weight.

Fees for the first 3 years of a registration may not be refunded. Fees for the 4th and subsequent years may be refunded prior to the start of the registration year provided that the registration plate and certificate are returned to the Secretary of State. After the start of the registration year, fees for the current year may be refunded if the ~~plate~~ plate and ~~certificates~~ certificate are returned within 120 days and the Secretary of State is satisfied that the credentials were not used during the registration period.

**Sec. A-18. 29-A MRSA §1601, sub-§7-A**, as enacted by PL 1997, c. 165, §3 and c. 176, §3, is repealed and the following enacted in its place:

**7-A. Proof of financial responsibility following violation.** A person who violates this section is subject to the proof of financial responsibility requirements under section 1605.

**Sec. A-19. 34-B MRSA §3610**, as enacted by PL 1997, c. 423, §3, is repealed and the following enacted in its place:

**§3610. Safety net services**

The department is responsible for providing a safety net of adult mental health services for people with major mental illness who the department or its designee determines can not otherwise be served by the local service networks. The department may develop contracts to deliver safety net services if the

department determines contracts to be appropriate and cost-effective. The state-operated safety net must include, but is not limited to:

**1. Beds.** Backup emergency hospital beds for people requiring medical stabilization, assessment or treatment;

**2. Treatment.** Intermediate and long-term treatment for people who need long-term structured care;

**3. Forensic services.** Forensic services;

**4. Intensive case management.** Intensive case management; and

**5. Other services.** Other services determined by the commissioner to be needed.

**Sec. A-20. 34-B MRSA §3862, sub-§1, ¶B**, as amended by PL 1997, c. 422, §6 and c. 438, §1, is repealed and the following enacted in its place:

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination as provided in section 3863. If the examination occurs in a hospital emergency room, the examination may be performed by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist. If the examination does not occur in a hospital emergency room, the examination may be performed only by a licensed physician or licensed clinical psychologist.

**Sec. A-21. 38 MRSA c. 23** is amended by repealing the chapter headnote and enacting in its place the following:

**CHAPTER 23**

**COASTAL AND LAKE WATERSHED DISTRICTS**

**Sec. A-22. PL 1993, c. 675, Pt. B, §11** is amended to read:

**B-11. 15 MRSA §603**, as enacted by PL 1991, c. 402, §2, is amended to read:

**§603. Warrant repository**

The district attorney of each court district shall designate, with the approval of the ~~resident~~ Chief Judge of the District Court Judge, at least one law enforcement agency that is responsible for the maintenance, administration and retention of attested copies of arrest warrants issued by the courts. If a court district encompasses more than one prosecutorial district, the respective district attorneys

shall attempt to agree on the designation of an arrest warrant repository. If the district attorney of a court district fails to designate an arrest warrant repository or the district attorneys are unable to agree to the designation of an arrest warrant repository for a court district, the Attorney General shall make the designation for that court district. The district attorney or attorneys shall notify the District Court and the Superior Court of the location of the arrest warrant repository for arrest warrants in the jurisdiction covered by those courts. All attested copies of arrest warrants issued by the District Court and the Superior Court must be directed to the arrest warrant repository designated for those courts except as otherwise provided by this chapter or by the standards adopted by rule of the Attorney General pursuant to this chapter.

**Sec. A-23. Retroactivity.** That section of this Act that amends Public Law 1993, chapter 675, Part B, section 11 is retroactive to July 14, 1994.

**Sec. A-24. PL 1995, c. 704, Pt. A, §25** is amended to read:

**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~~ Second 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~~ Second Regular Session of the 118th Legislature no later than January 20, 1998.

**Sec. A-25. Retroactivity.** That section of this Act that amends Public Law 1995, chapter 704, Part A, section 25 applies retroactively to July 1, 1997.

**Sec. A-26. PL 1995, c. 704, Pt. C, §1**, as amended by PL 1997, c. 502, §13, is further amended to read:

**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, except those adopted pursuant to Title 38, section 420-D, subsection 11, 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 February 28, 1997. Rulemaking to update the first comprehensive lists of "watersheds of bodies of water most at risk from new development" and "sensitive or threatened regions ~~of~~ or watersheds" is not considered major substantive rulemaking pursuant to Title 5, chapter 375, subchapter II-A.

**Sec. A-27. PL 1997, c. 507, §4** is amended to read:

**Sec. 4. Effective date.** Those sections of this Act that ~~repeal the Maine Revised Statutes, Title 19-A, section 652, subsection 7,~~ amend Title 19-A, section 652, subsection 8 and enact Title 19-A, section 4013, subsection 4 take effect October 1, 1997.

**Sec. A-28. PL 1997, c. 530, Pt. A, §27** is amended to read:

**Sec. A-27. 22 MRSA §3788-A**, as enacted by PL 1995, c. 418, Pt. A, §34, is amended to read:

**§3788-A. MaineServe**

The department shall establish a MaineServe program designed to provide parents who are eligible for ~~AFDC~~ TANF assistance opportunities to serve their communities and the State.

**1. Purposes.** The purposes of the MaineServe program are as follows:

- A. To meet the human, educational, environmental and public safety needs of this State without displacing existing workers;
- B. To renew the ethic of civic responsibility and the spirit of community throughout the State;
- C. To encourage parents who are eligible for ~~AFDC~~ TANF assistance to engage in voluntary service to the State;
- D. To expand and strengthen existing nonprofit and public sector initiatives that are addressing the needs of their communities and of the State; and
- E. To provide parents who are eligible for ~~AFDC~~ TANF the opportunities to serve their communities and the State in a manner that assists them in developing and renewing their skills in ways that may lead to employment that is sufficient to sustain their families.

**2. Eligibility.** Any ~~ASPIRE JOBS~~ ASPIRE-TANF participant over 16 years of age is eligible to volunteer for MaineServe, except that any person under 20 years of age who has not completed high school or its equivalent must also participate in an educational activity designed to complete high school education.

**3. Duration of service.** MaineServe volunteers may serve for up to 9 months. At the end of the service period, the MaineServe volunteer and the ~~ASPIRE JOBS~~ ASPIRE-TANF case manager shall evaluate the MaineServe placement. If it is determined to be appropriate, the MaineServe volunteer may renew the placement within MaineServe.

**4. Conditions of service.** The MaineServe program is an alternative work experience program subject to the standards set out in the Social Security Act, 42 United States Code, Section 682(f).

## PART B

**Sec. B-1. 7 MRSA §3909, sub-§2,** as enacted by PL 1997, c. 456, §3, is amended to read:

**2. Designated employees of the department.** For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian to serve civil process pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court. The commissioner may authorize humane agents or a state veterinarian to represent the department in District Court in the

prosecution of civil violations of these laws. Certification of the humane agents and a state veterinarian for this purpose is as provided under Title 30-A, section ~~4224~~ 4453, subsection ~~2~~ 5. Once certified, prosecution by the humane agent or a state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.

**Sec. B-2. 9-B MRSA §443, sub-§8,** as amended by PL 1997, c. 429, Pt. C, §1, is repealed.

**Sec. B-3. 9-B MRSA §443, sub-§11,** as amended by PL 1997, c. 315, §16 and c. 457, §3, is repealed and the following enacted in its place:

**11. Annuities.** A financial institution, credit union or financial institution holding company, or a subsidiary or employee of such an entity, authorized to do business in the State may sell, or arrange for the sale of, through a licensed 3rd party, annuities purchased from a licensed insurance company and may share commissions in connection with the sale of annuities pursuant to the provisions of Title 24-A. A financial institution, a credit union or a financial institution holding company, or an employee or subsidiary of such an entity, must be licensed in accordance with Title 24-A, section 1411 or 1416 before engaging in any of the activities concerning the sale of annuities authorized by this subsection.

A financial institution, credit union or financial institution holding company that sells or arranges for the sale of annuities on the premises of that entity:

A. Shall post conspicuously a notice that is clearly visible to all customers that may purchase annuities. The notice must state in clearly understandable language that the annuities are not insured by the Federal Deposit Insurance Corporation;

B. Shall orally inform a prospective purchaser of annuities that the annuities are not insured by the Federal Deposit Insurance Corporation; and

C. Before a sale of annuities is completed, shall obtain a written statement signed by the purchaser of the annuities stating that the purchaser received the oral notice required by paragraph B.

**Sec. B-4. 9-B MRSA §539-A, sub-§4,** as amended by PL 1997, c. 22, §22, is repealed.

**Sec. B-5. 9-B MRSA §739-A, sub-§4,** as amended by PL 1997, c. 22, §24, is repealed.

**Sec. B-6. 12 MRSA §683, first ¶,** as amended by PL 1997, c. 346, §1 and c. 549, §1 and



affected by §2, is repealed and the following enacted in its place:

The Maine Land Use Regulation Commission, as established by Title 5, section 12004-D, subsection 1 to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission consists of 7 public members, none of whom may be state employees, who must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Legislature, for staggered 4-year terms. Of the potential appointees to the commission, the Governor shall actively seek and give consideration to persons who are knowledgeable in commerce and industry; fisheries and wildlife; forestry; and conservation. In addition the Governor shall actively seek and give consideration to persons residing in or near the unorganized areas of the State and to persons residing on unorganized coastal islands. At least 4 members must be residents within the commission's jurisdiction. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

**Sec. B-7. Application.** The provision of the section of this Act that repeals and replaces the Maine Revised Statutes, Title 12, section 683, first paragraph requiring that 4 members of the Maine Land Use Regulation Commission be residents within the commission's jurisdiction must be fully implemented by December 31, 1999, consistent with Public Law 1997, chapter 549, section 2. This Act does not require the terms of members serving on the Maine Land Use Regulation Commission on September 19, 1997 to be terminated.

**Sec. B-8. 15 MRSA §393, sub-§8,** as amended by PL 1997, c. 334, §3 and c. 462, §1, is repealed and the following enacted in its place:

**8. Penalty.** A violation of subsection 1, paragraph A, B or C is a Class C crime. A violation of subsection 1, paragraph D is a Class D crime. A violation of subsection 1-A by a person at least 18 years of age is a Class C crime.

**Sec. B-9. 19-A MRSA §2101, sub-§9,** as repealed and replaced by PL 1997, c. 537, §27 and affected by §62, is repealed.

**Sec. B-10. 23 MRSA §3032, sub-§2,** as enacted by PL 1987, c. 385, §2, is amended to read:

**2. Extensions.** The municipal officers of the affected municipality may except a proposed, unaccepted way or portion of a proposed, unaccepted way described in subsection ~~1~~ 1-A from the operation of the time limitations of that subsection by filing, in the registry of deeds where the subdivision plan is recorded, a notice stating that the way or portion of the way is excepted from the operation of subsection ~~1~~ 1-A for a period of 20 years from the filing of the notice. To be effective, this exception must be filed prior to the expiration of the time limitations of subsection ~~1~~ 1-A. An extension accomplished under this subsection may be extended by the municipal officers for a subsequent 20-year period by the filing of a new notice within the preceding 20-year extension period.

**Sec. B-11. Retroactivity.** The section of this Act that amends the Maine Revised Statutes, Title 23, section 3032, subsection 2 is retroactive to September 19, 1997.

**Sec. B-12. 24 MRSA §2349,** as amended by PL 1997, c. 370, Pt. C, §§1 to 3 and repealed by c. 445, §6 and affected by §32, is repealed.

**Sec. B-13. 24-A MRSA §1858,** as enacted by PL 1997, c. 86, §1, is repealed.

**Sec. B-14. 24-A MRSA §4216, sub-§1, ¶D,** as amended by PL 1997, c. 592, §71, is further amended to read:

D. The Commissioner of Human Services certifies to the superintendent that:

(1) The health maintenance organization does not meet the requirements of section 4204, subsection ~~1~~ 2-A, paragraph B; or

(2) The health maintenance organization is unable to fulfill its obligations to furnish health care services;

**Sec. B-15. 30-A MRSA §4221, sub-§2, ¶A,** as amended by PL 1997, c. 456, §20, is repealed.

**Sec. B-16. 30-A MRSA §4453, sub-§§3 and 4,** as enacted by PL 1997, c. 296, §9, are amended to read:

**3. Department of Environmental Protection.** Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; ~~and~~

**4. Maine Land Use Regulation Commission.** Maine Land Use Regulation Commission employees as set forth in Title 12, section 685-C, subsection 9; ~~and~~

**Sec. B-17.** **30-A MRSA §4453, sub-§5** is enacted to read:

**5. Humane agents and state veterinarians.** Humane agents and state veterinarians as set forth in Title 7, section 3909, subsection 2.

**Sec. B-18.** **32 MRSA §2272, sub-§7-A**, as enacted by PL 1997, c. 212, §1, is reallocated to 32 MRSA §2272, sub-§12-A.

**Sec. B-19.** **32 MRSA §2279, first ¶**, as amended by PL 1997, c. 212, §2 and c. 294, §6, is repealed and the following enacted in its place:

An applicant applying for a license as an occupational therapy practitioner must file a written application, provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements.

**Sec. B-20.** **32 MRSA §2279, sub-§5**, as amended by PL 1997, c. 212, §3 and c. 294, §6, is repealed and the following enacted in its place:

**5. Examination.** An applicant for licensure as an occupational therapy practitioner must pass an examination as provided for in section 2280-A.

**Sec. B-21.** **32 MRSA §6020-A**, as enacted by PL 1997, c. 379, §17, is repealed and the following enacted in its place:

**§6020-A. Eligibility for license**

To be eligible for licensure by the board as a speech-language pathologist, audiologist or speech-language pathology assistant, a person must possess the following:

**1. Speech-language pathologists or audiologists.** To be licensed as a speech-language pathologist or audiologist, a master's degree or its equivalent, as determined by the board, which is consistent with the requirements for the American Speech and Hearing Association Certificate of Clinical Competency in Speech Pathology or Audiology. The board may establish the requirements for academic course work, supervised clinical practice, supervised professional employment and written examination; or

**2. Speech-language pathology assistants.** To be licensed as a speech-language pathology assistant, an associate degree in the field of communication disorders, or its equivalent as determined by the board, and must meet such other minimal qualifications as the board may establish.

**Sec. B-22.** **34-B MRSA §3607, first ¶**, as amended by PL 1997, c. 365, §1 and c. 371, §1, is repealed and the following enacted in its place:

The department shall establish 7 quality improvement councils, called area councils, to evaluate the delivery of mental health services to children and adults under the authority of the department or who have a major mental illness, and to advise the department regarding quality assurance, systems development and the delivery of mental health services to children and adults under the authority of the department. The department shall also establish 2 institute councils to evaluate the delivery of mental health services at the 2 state mental health institutes and advise the department regarding quality assurance, operations and functions of the mental health institutes.

**Sec. B-23.** **34-B MRSA §3863, sub-§2, ¶A**, as amended by PL 1997, c. 422, §8 and c. 438, §2, is repealed and the following enacted in its place:

A. The physician, physician's assistant, certified psychiatric clinical nurse specialist, nurse practitioner or psychologist has examined the person on the date of the certificate; and

**Sec. B-24.** **36 MRSA §6207, sub-§3, ¶B**, as amended by PL 1997, c. 530, Pt. A, §33, is repealed.

**PART C**

**Sec. C-1.** **5 MRSA §17852, sub-§13**, as enacted by PL 1997, c. 401, §3, is amended to read:

**13. Fire marshals; option.** The retirement benefit of a person who qualifies under section 17851, subsection 13 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 fire marshal on or after October 1, 1997, elects the option provided in section 17851, subsection 13 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 fire marshal before October 1, 1997, elects the option provided in section 17851, subsection 13 and pays to the retirement system a single payment or periodic payments of a lump sum or a combination of single and periodic payments of that 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 a 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, 1997~~ October 1, 1997 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 13 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 13 at any time after the date on which the person is first employed as a fire marshal 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 takes effect October 1, 1997. Election to retire under this subsection is a one-time irrevocable election. A person who was first employed as a fire marshal on or after October 1, 1997 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 October 1, 1997 must make the election no later than January 1, 1998.

**Sec. C-2. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 5, section 17852, subsection 13 applies retroactively to September 19, 1997.

**Sec. C-3. 18-A MRSA §2-901,** as amended by PL 1997, c. 76, §1, is further amended to read:

**§2-901. Disposition of will deposited with court**

~~During the testator's lifetime a will deposited for safekeeping with the court in the office of the register of probate must before September 19, 1997~~ may be delivered only to the testator or to a person authorized in writing signed by the testator to receive the will. A conservator may be allowed to examine a deposited will of a protected testator under procedures designed to maintain the confidential character of the document to the extent possible and to ensure that it will be resealed and left on deposit after the examination. Upon being informed of the testator's death, the court shall notify any person designated to receive the will and deliver it to that designated person on request; or the court may deliver the will to the appropriate court. The court may not accept a will for safekeeping after September 19, 1997.

**Sec. C-4. Retroactivity.** The section of this Act amending the Maine Revised Statutes, Title 18-A,

section 2-901 applies retroactively to September 19, 1997.

**Sec. C-5. 18-A MRSA §5-507,** as corrected by RR 1997, c. 1, §13, is repealed.

**Sec. C-6. 18-A MRSA §5-508,** as renumbered by RR 1997, c. 1, §13, is repealed and the following enacted in its place:

**§5-508. Durable financial power of attorney**

(a) A durable financial power of attorney is a durable power of attorney by which a principal designates another as attorney-in-fact to make decisions on the principal's behalf in matters concerning the principal's finances, property or both. In the exercise of the powers conferred under a durable financial power of attorney, an attorney-in-fact shall act as a fiduciary under the standards of care applicable to trustees as described by section 7-302.

(b) An attorney-in-fact is not authorized to make gifts to the attorney-in-fact or to others unless the durable financial power of attorney explicitly authorizes such gifts.

(c) A durable financial power of attorney must be notarized by a notary public or an attorney-at-law.

(d) A durable financial power of attorney must contain the following language:

"Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent" or "Attorney-in-fact") to make decisions about your money, property or both and to use your money, property or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property and spend your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated, and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money, property or both belonging to the Principal and to

spend the Principal's money, property or both on that person's behalf in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and 7-302 and in Maine case law. As the Agent, you are not entitled to use the money or property for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this Durable Power of Attorney will end when the Principal dies and you will not have the authority to administer the estate unless you are authorized to do so in accordance with the Maine Probate Code. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney or your duties under it that you do not understand, you should ask a lawyer to explain it to you."

This language does not confer powers not otherwise contained in the durable financial power of attorney.

(e) Subject to the requirements of subsection (b), the generality powers of an attorney-in-fact in a power of attorney that contains language appointing the attorney-in-fact to care for, manage, control and handle all of the principal's business, financial, property and personal affairs in as full and complete a manner as the principal might do is not limited by the inclusion in the power of attorney of a list of the specific powers granted to the attorney-in-fact.

(f) A power of attorney that contains a grant of general authority referred to in subsection (e) does not create a power of attorney for health care unless the power of attorney explicitly authorizes the attorney-in-fact to make health care decisions.

(g) The requirements of subsections (b), (c) and (d) do not render ineffective a durable financial power of attorney validly executed prior to September 19, 1997.

**Sec. C-7. 19-A MRSA §4011, sub-§1**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**1. Crime committed.** Except as provided in subsection 2, violation of the following is a Class D crime, when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement:

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.~~

**Sec. C-8. Retroactivity.** The section of this Act that amends the Maine Revised Statutes, Title 19-A, section 4011, subsection 1 is retroactive to October 1, 1997.

**Sec. C-9. 22 MRSA §3811, sub-§4**, as enacted by PL 1993, c. 654, §1 and as amended by PL 1997, c. 530, Pt. A, §34, is further amended to read:

**4. Program benefits.** "Program benefits" means money payments or food coupons issued by the department pursuant to an application for benefits made by an individual to either ~~Temporary Assistance for Needy Families~~ Aid to Families with Dependent Children established in ~~former~~ chapter 1053 ~~or~~ the food stamp program established in chapter 851 ~~or the Temporary Assistance to Needy Families program established in chapter 1053-A.~~

**Sec. C-10. Retroactivity.** The section of this Act that amends the Maine Revised Statutes, Title 22, section 3811, subsection 4 is retroactive to June 12, 1997.

## PART D

**Sec. D-1. 3 MRSA §959, sub-§1, ¶I**, as enacted by PL 1995, c. 488, §2, is amended to read:

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

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

**Sec. D-2. 26 MRSA §803**, as enacted by PL 1993, c. 600, Pt. A, §23, is repealed.

**Sec. D-3. 26 MRSA c. 11, sub-c. I,** as amended, is repealed.

**Sec. D-4. 26 MRSA §1452,** as repealed and replaced by PL 1997, c. 410, §10, is repealed.

**Sec. D-5. 26 MRSA §1453,** as amended by PL 1987, c. 534, Pt. B, §§17, 18 and 23, is repealed.

**Sec. D-6. 26 MRSA §1454,** as amended by PL 1995, c. 560, Pt. G, §17 and affected by §29, is repealed.

**Sec. D-7. 26 MRSA §2006, sub-§5, ¶¶E and F,** as enacted by PL 1997, c. 410, §12 and affected by §13, are amended to read:

E. Provide policy recommendations to ensure the effectiveness of work-related programs and services for youth, including youth with disabilities, and report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 1999; and

F. Provide policy recommendations to ensure the effectiveness of work-related programs and services for "at-risk" youth, and report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2000; and .

**Sec. D-8. 26 MRSA §2006, sub-§5, ¶G,** as enacted by PL 1997, c. 410, §12 and affected by §13, is repealed.

**Sec. D-9. 26 MRSA §2006, sub-§§5-A to 5-D** are enacted to read:

**5-A. Apprenticeship.** In addition to its other duties, the council, through its Standing Committee on Apprenticeship, shall perform the duties of the former State Apprenticeship and Training Council.

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

(1) "Apprentice" means a person at least 16 years of age who is employed under an apprenticeship agreement to work at and learn a specific occupation and is registered with the council.

(2) "Apprentice agreement" means a written agreement that is entered into by an apprentice or organization of employees with an employer or an association of employers and provides for the apprentice's participation in a definite sequence of job training and for such related and supplemental instruction as may be determined necessary

for the apprentice to qualify as a journeyman in a particular occupation.

(3) "Committee" means the council's Standing Committee on Apprenticeship.

(4) "Journeyman upgrading" means continued related instruction advocated for by a sponsor, including joint apprenticeship and training committees or employers, for an individual who has fulfilled a bona fide apprenticeship as determined by the committee. Enrollment criteria are established by the committee.

(5) "Sponsor" means an employer or a potential employer.

B. The committee is composed of 12 voting members appointed by the Governor and made up as follows: 4 members must be representatives of employees and be bona fide members of a recognized major labor organization; 4 members must be representatives of employers and be bona fide employers or authorized representatives of bona fide employers; and 4 members must be representatives of the public, selected from neither industrial employers nor employees, nor may they be directly concerned with any particular industrial employer or employee. At least 2 members who are representatives of the public must represent the interests of women, minorities and recipients of aid to families with dependent children who are in registered apprenticeships. Each member holds office until a successor is appointed and qualified, and any vacancy must be filled by appointment for the unexpired portion of the term. The chair of the committee must be a member of the committee and is named by the members of the committee. The Commissioner of Labor or a designee, the Commissioner of Economic and Community Development or a designee, the Commissioner of Education or a designee, the chair of the council or a member designee and the President of the Maine Technical College System or a designee are nonvoting ex officio members of the committee.

C. The committee shall:

(1) Establish standards, through joint action of employers and employees, assist in the development of registered apprenticeship programs in conformity with this subsection and generally encourage and promote the establishment of registered apprenticeship programs;

(2) Register or terminate, or cancel the registration of, apprenticeship programs and apprenticeship agreements, including journeyman upgrading;

(3) Authorize and issue certificates of completion of apprenticeship to apprentices who have been certified by a joint apprenticeship committee or employer as having satisfactorily completed their training;

(4) Keep a record of registered programs and apprentice agreements, including the number of women and minority apprentices by occupation and the number of occupations that are nontraditional for women;

(5) Adopt rules necessary to carry out the intent and purpose of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A;

(6) Make an annual report by March 1st of each year to the Governor, the joint standing committee of the Legislature having jurisdiction over labor matters, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over business and economic development matters. The report must include, for each business assisted under this subsection, the name and location of each business, the number of apprentices, the return on investment and, when applicable, the number of new jobs created;

(7) Ensure availability and oversee coordination of related and supplemental instruction for apprentices; and

(8) Develop a biennial plan in consultation with the Department of Labor and develop an evaluation tool and process that facilitates a review of the apprenticeship program outcomes based on the committee's biennial goals and objectives. As a result of this process, the committee may initiate programs that promote apprenticeship and work force development.

D. Committee meetings are held quarterly and as often as is necessary in the opinion of a majority of the committee. The chair shall designate the time and place of the meetings and the staff shall notify all committee members at least one week in advance of each meeting. A majority of the membership of the committee

constitutes a quorum, as long as each of the groups in paragraph B has at least one representative present.

E. Standards for apprentice agreements must contain the following:

(1) A statement of the occupation to be taught and the required hours for completion of apprenticeship;

(2) A statement of the major work processes in the occupation to be taught and the approximate amount of time to be spent at each process;

(3) A statement of educational subjects to be studied and mastered, including on-the-job-training work experience. An agreement must state the number of hours required to complete an apprenticeship and indicate the approximate number of hours spent in each process and each training component;

(4) A statement that the apprentices may not be less than 16 years of age;

(5) A statement of the progressively increasing scale of wages to be paid the apprentice;

(6) A period of probation during which the committee shall terminate the apprentice agreement upon the written request of any party to the apprentice agreement. After the probationary period, the committee may terminate the registration of an apprentice upon agreement of the parties;

(7) A statement that, when differences arising out of the apprentice agreement can not be adjudged locally or in accordance with the occupation's established procedures, the services of the committee may be used for consultation regarding the settlement of the differences;

(8) A statement that if an employer is unable to fulfill its obligation under the apprentice agreement, the employer may transfer the obligation to another employer;

(9) A statement that there may be no discrimination based on sex, race, creed or color in employing apprentices; and

(10) Additional standards as may be prescribed in accordance with this subsection.

F. The committee may establish local, regional and state joint apprenticeship committees in any

occupation or group of occupations, in cities, regions of the State or occupation areas whenever the apprentice training needs of the occupation or group of occupations justify the establishment. These local, regional or state joint apprenticeship committees are composed of an equal number of employer and employee representatives, selected by the respective local or state employer and employee organizations in the occupation or group of occupations, and any advisory members representing local boards or other agencies as may be advisable. Each local, regional or state joint apprenticeship committee must include an even number of voting members with expertise in issues related to women, minorities or recipients of aid to families with dependent children who are in apprenticeships, 1/2 to be chosen by the employer representatives and 1/2 to be chosen by the employee representatives. In an occupation or group of occupations in which there is no bona fide employer or employee organization, a joint apprenticeship committee may be composed of persons known to represent the interests of employers and of employees, or a state joint apprenticeship committee may be approved as the joint apprenticeship committee in that occupation or group of occupations. Subject to the review of the committee and in accordance with standards established by the committee, the joint apprenticeship committees may devise standards for apprenticeship agreements and give necessary aid to their respective occupations and localities. The activities of the joint apprenticeship committees must comply with all applicable affirmative action rules adopted by the committee.

G. This subsection, or any apprentice agreement approved under this subsection, does not invalidate an apprenticeship provision in a collective bargaining agreement between employers and employees that sets up higher apprenticeship standards. None of the terms or provisions of this subsection applies to any person, firm, corporation or craft unless the person, firm, corporation or craft voluntarily elects to be subject to the terms and provisions of this subsection.

H. In carrying out its duties on a state level, the committee shall employ personnel in the Department of Labor, Bureau of Employment Services.

(1) The Bureau of Employment Services must have a director of apprenticeship and training who supervises the execution of agreements and the maintenance of standards.

(2) The Bureau of Employment Services shall keep a record of apprentice agree-

ments and programs and ensure that all aspects of related and supplemental instruction are delivered and coordinated in a timely manner.

(3) Apprenticeship field staff may be retained by agreements between the Bureau of Employment Services and its service provider network. Field staff are responsible for promoting apprenticeships to employers, writing apprenticeship programs and carrying out delegated council duties.

(4) The committee's budget request must be incorporated into the overall budget of the Department of Labor.

(5) The Commissioner of Labor is ultimately responsible for selecting and supervising all personnel employed by the committee, providing adequate staff support to the committee and disbursing funds according to committee policy.

I. The Maine Technical College System remains the primary vendor for apprenticeship-related instruction according to a biennial articulation agreement with the Department of Labor.

(1) The committee shall cooperate with the Department of Education, local school authorities, such as adult education and applied technology centers, and other groups in organizing and establishing related or supplemental instruction for apprentices employed under approved agreements.

(2) An educational institution or apprenticeship sponsor may provide related and supplemental instruction according to the policies established by the committee. Educational providers shall identify a contact person for the committee staff. As funds permit, the Department of Labor shall underwrite 50% of tuition costs for apprentices in good standing at public educational institutions and provide tuition assistance to sponsor groups in accordance with committee policies. To ensure that adequate funds are available for tuition, the committee shall provide the Commissioner of Labor with its biennial plan, including projected apprenticeship enrollments and a subsequent budget request.

(3) The committee shall assist the Department of Education, the State's technical colleges, local school authorities, such as adult education and applied technology

centers, and other groups in developing training courses to establish preapprenticeship training programs if the technical colleges, local schools and other groups wish to do so. Successful completion of preapprenticeship training programs enables a participant to meet the qualifying standards of the apprenticeship for which the participant has expressed serious interest. All preapprenticeship training programs are subject to approval by the committee.

J. The committee shall cooperate with the Department of Labor and the Department of Economic and Community Development in matters relating to work force and economic development.

K. The committee shall cooperate and consult with the Department of Corrections to develop policies concerning issues of job safety for prisoners involved in prison industries programs, work release programs and job displacement created by those programs and to develop opportunities for jobs in the prison industries programs consistent with Title 34-A, section 1403, subsection 9.

L. The committee shall cooperate, consult and coordinate with groups that help people on welfare find jobs. The committee shall also cooperate with other relevant groups to identify obstacles that may prevent women and recipients of aid to families with dependent children from participating in registered apprenticeships, and the necessary measures to be taken to overcome them.

M. Committee field staff are responsible for identifying and contacting potential sponsors with whom apprenticeship programs may be developed. Staff may receive business referrals from a variety of sources, including, but not limited to, local work force development centers, business visitation programs, local chambers of commerce, the Department of Economic and Community Development and the Department of Labor's Employer Assistance Division. Staff and committee members may regularly conduct presentations to employer groups, schools and other interested parties and develop brochures, public service announcements and promotional videotapes for the purpose of promoting apprenticeship.

N. Committee staff may provide apprenticeship sponsors with technical assistance that encourages high-quality job creation, reorganizes a workplace to help it remain competitive, upgrades worker skills by providing essential work

competencies, occupational task analysis and instructor training and encourages affirmative action and recruitment of special populations.

O. All apprentice and training programs established under this subsection must conform to 29 Code of Federal Regulations, Parts 29 and 30, and any subsequent applicable provisions. The Federal Bureau of Apprenticeship and Training is available as a resource to the committee.

**5-B. Employment of people with disabilities.**

In addition to its other duties, the council, through its Standing Committee on Employment of People with Disabilities, referred to in this subsection as the "committee," shall perform the duties of the former Governor's Committee on Employment of People with Disabilities.

A. The committee shall:

(1) Advise, consult and assist the executive and legislative branches of State Government on activities of State Government that affect the employment of disabled individuals. The committee is solely advisory in nature. The committee may advise regarding state and federal plans and proposed budgetary, legislative or policy actions affecting disabled individuals;

(2) Serve as an advocate on behalf of disabled citizens promoting and assisting activities designed to further equal opportunity for people with disabilities;

(3) Conduct educational programs considered necessary to promote public understanding of the needs and abilities of disabled citizens of this State;

(4) Provide information, training and technical assistance to promote greater employer acceptance of disabled workers;

(5) Advise and assist employers and other organizations interested in developing employment opportunities for disabled people; and

(6) Inform the public of the benefits of making buildings accessible to and usable by individuals with disabilities; monitor the enforcement of state and federal laws regarding architectural accessibility; and advise and assist building owners by disseminating information about accessibility and by making technical assistance available when appropriate.



(a) A wheelchair symbol must be appropriately displayed to identify buildings with facilities that are accessible to disabled and elderly individuals; accessibility is determined by the committee.

(b) The symbol required in division (a) must be that adopted by the Rehabilitation International's World Congress in 1969.

(c) Application for display of the wheelchair symbol must be made by the committee, which shall obtain and keep on file a supply of symbols.

B. The committee shall administer in accordance with current fiscal and accounting regulations of the State, and in accordance with the philosophy, objectives and authority of this subsection, any funds appropriated for expenditure by the committee or any grants or gifts that may become available and are accepted and received by the committee.

C. The committee shall submit an annual report directly to the Governor and the Legislature not later than September 1st of each year concerning its work, recommendations and interest of the previous fiscal year and future plans. The committee shall make any interim reports it considers advisable.

D. The committee shall keep minutes of all meetings, including a list of people in attendance.

E. The committee may employ, subject to the Civil Service Law, the staff necessary to carry out its objectives. The committee may employ consultants and contract for projects it determines necessary. To the extent feasible and reasonable, the committee must be given the staff, facilities, equipment, supplies, information and other assistance required to carry out its activities.

F. The committee may make necessary rules, not inconsistent with this subsection, for promoting its purposes.

G. The committee may receive and accept, from any source, allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this subsection, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from a private source, federal

agency or governmental subdivision of the State or its agencies.

**5-C. Occupational information.** In addition to its other duties, the council shall perform the duties of the former Maine Occupational Information Coordinating Committee.

A. The council shall:

(1) Support the development, maintenance and operation of the Comprehensive Career, Occupational and Economic Data-based System, established in section 1451, and foster communication and coordination of education, employment and training programs through the use of the system;

(2) Develop and implement an overall system for coordinating and delivering occupational and economic supply and demand information, using standardized techniques as feasible, to employment, training, applied technology education and vocational rehabilitation agencies; economic development agencies; private industry; and individuals;

(3) Facilitate the use of occupational and economic information in planning and allocating employment, training, applied technology education and vocational rehabilitation programs;

(4) Facilitate the use of career and occupational information in both school and non-school settings through promotion and support of career education programs and activities;

(5) Provide the Governor with the comprehensive occupational and economic information required to improve the coordination of employment, training, applied technology education and vocational rehabilitation programs to meet commonly defined needs; and

(6) Recommend to the Governor legislative and executive initiatives designed to increase the utility of the Comprehensive Career, Occupational and Economic Data-based System as the system relates to a more effective coordination of employment, training, applied technology education and vocational rehabilitation programs, especially as these programs support economic development initiatives as the system relates to industrial recruitment and expansion efforts, and as the system relates to the delivery of career

information to those involved in the career decision-making process.

B. The Executive Director of the Bureau of Employment Services may appoint, subject to the Civil Service Law, personnel authorized by the council and necessary to carry out the duties in this subsection.

C. The council may accept gifts, grants or other money from any source and may enter into contracts, charge fees and make grants for services consistent with this subsection.

**5-D. Human resource development.** In addition to its other duties, the council shall perform the duties of the former Human Resource Development Council.

A. The council shall:

(1) Perform all duties and responsibilities of the State Job Training Coordinating Council as defined in the United States Job Training Partnership Act, Section 122;

(2) Enable the implementation of state human resource development goals which include, but are not limited to:

(a) Developing a multiagency cooperative approach;

(b) Creating greater coordination between economic development and human resource development agencies;

(c) Enhancing employment and training services for groups traditionally not part of the economic mainstream;

(d) Coordinating with secondary and postsecondary educational systems to improve transition from school to work; and

(e) Increasing retraining and upgrading opportunities for the State's workers;

(3) Following the general requirements of the State Human Resource Development Policy, identify, in cooperation with appropriate state agencies and other interested parties such as the Private Industry Council, the employment and training and applied technology education needs throughout the State;

(4) Assess the extent to which employment and training, applied technology education, welfare recipient job training, rehabilitation services, public assistance, economic development and other federal, state and local programs represent a consistent, integrated and coordinated approach to the delivery of those services;

(5) Based on its assessment of the need for better coordination of the delivery of services listed in subparagraph (3), recommend to the Governor and Legislature the Human Resource Development Coordination Criteria affecting agencies involved with human resource development. This document must contain the elements of the United States Job Training Partnership Act, Section 121, and the coordination requirements derived from the State Human Resources Development Policy. The coordination requirements of the Human Resource Development Coordination Criteria must be communicated to affected state, federal and local agencies through planning instructions issued by the Department of Labor;

(6) Review the plans of all state agencies identified in the Human Resource Development Coordination Criteria, advise the Governor and Legislature on these plans and certify their consistency with the criteria contained in the Human Resource Development Coordination Criteria;

(7) Review and comment annually on the reports required pursuant to the federal Carl D. Perkins Vocational Education Act of 1984, Public Law 98-524, Sections 113(b)(9), 113(c)(1) and 114(a)(1), as amended; review and comment on the state plan developed by the state employment service agency; and review and comment pursuant to the federal Family Support Act of 1988, Public Law 100-998, Section 483(a)(2) on the state plan developed by the state income maintenance agency;

(8) Recommend to the Governor an annual State Human Resource Development Plan, which describes the human resource development services and numbers of participants to be served by all agencies identified in the Human Resource Development Coordination Criteria;

(9) Review the operation of programs identified in the State Human Resource De-

velopment Plan and determine the responsiveness, adequacy and coordination of those programs and recommend to the Governor, the Legislature and other interested entities ways to improve the effectiveness of the programs;

(10) Prepare an annual report, which is a public document, to the Governor and Legislature and issue other studies, reports or documents advisable in carrying out the purposes of this subsection;

(11) Recommend to the Governor and Legislature service delivery areas within the State, as well as areas, grantees and procedures within the State for the selection of representatives pursuant to the United States Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418;

(12) Recommend resource allocations under the United States Job Training Partnership Act, Titles I, II and III, that are not subject to the United States Job Training Partnership Act, Section 202(a);

(13) Develop appropriate relationships with other programs;

(14) Coordinate activities with Private Industry Councils;

(15) Recommend variations in performance standards and include those recommendations in the Human Resource Development Coordination Criteria; and

(16) Submit comments to the Governor on plans and programs for dislocated workers, as required under the United States Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418.

B. The council has the necessary authority to carry out the purposes of this section.

C. The Commissioner of Labor may appoint employees necessary to carry out the council's responsibility under this subsection.

D. The Commissioner of Labor may adopt rules, in accordance with Title 5, chapter 375, necessary to carry out the council's responsibility under this subsection.

**Sec. D-10. 26 MRSA §2006, sub-§7, ¶A,** as enacted by PL 1997, c. 410, §12 and affected by §13, is amended to read:

A. The council shall create 4 standing committees of up to 12 members. Each standing committee may include up to 4 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership. The standing committees shall make recommendations to the full council. The 4 standing committees are as follows:

(1) ~~Apprenticeship, with its membership divided evenly among representatives from business and industry, labor and the public. The council, through its Standing Subcommittee on Apprenticeship, will function as the State Apprenticeship Council based on the Apprenticeship Council's existing or successor language specified in subsection 5-A, paragraph B;~~

(2) School-to-work;

(3) Employment of people with disabilities; and

(4) Women's employment issues.

## PART E

**Sec. E-1. 4 MRSA §2-A** is enacted to read:

### **§2-A. Justice of the Supreme Judicial Court to sit in District Court, Administrative Court**

The Chief Justice of the Supreme Judicial Court may assign a Justice or Active Retired Justice of the Supreme Judicial Court to sit in the District Court or the Administrative Court, and when so directed the justice has authority and jurisdiction in the District Court or the Administrative Court as if the justice were a regular judge of that court. When assigned under this section, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court or the Administrative Court is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Supreme Judicial Court to sit in the District Court or the Administrative Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice.

**Sec. E-2. 4 MRSA §807, sub-§3, ¶J,** as amended by PL 1997, c. 466, §1 and affected by §28, is further amended 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 5 or fewer shareholders; or

**Sec. E-3. 4 MRSA §807, sub-§3, ¶K**, as enacted by PL 1997, c. 466, §2 and affected by §28, is amended to read:

K. A person who is not an attorney, but who is representing the Department of Human Services in accordance with Title 19-A, section 1615; Title 19-A, section 2009, subsection 8; Title 19-A, section 2201, subsection 1-B; and Title 19-A, section 2202, subsection 1-B; or

**Sec. E-4. 4 MRSA §807, sub-§3, ¶L** is enacted to read:

L. A person who is not an attorney, but who is representing the Department of Agriculture, Food and Rural Resources in accordance with Title 7, section 3909, subsection 2.

**Sec. E-5. 19-A MRSA §652, sub-§8**, as amended by PL 1997, c. 507, §1 and affected by §4, is further amended to read:

**8. Parties under 16 years of age.** The clerk may not issue a marriage license to a person under ~~18~~ 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. The judge of probate shall base a decision on whether to issue consent on the best interest of the parties under ~~18~~ 16 years of age and shall consider the age of both parties and any criminal record of a party who is 18 years of age or older. The judge of probate, in the interest of public welfare, may order, after notice and opportunity for hearing, that a license not be issued. The judge of probate shall issue a decision within 30 days of receiving the notification under paragraph B.

**Sec. E-6. Retroactivity.** The section of this Act amending the Maine Revised Statutes, Title 19-A, section 652, subsection 8 applies retroactively to October 1, 1997.

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

Effective April 3, 1998.

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## CHAPTER 684

H.P. 1456 - L.D. 2047

### An Act to Implement the Recommendations of the Governor's Advisory Committee on Gambling

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

**Sec. 1. 17 MRSA §314, 2nd ¶**, as amended by PL 1991, c. 528, Pt. H, §1 and affected by Pt. RRR and amended by c. 591, Pt. H, §1, is further amended to read:

The fee for such a license to any nonprofit organization is ~~\$7.50~~ \$12.00 for each calendar week, or portion thereof, that the amusement is to be operated, or the license may be issued for a calendar month for a fee of ~~\$22.50~~ \$36.00 or a calendar year for a fee of \$400. A special per-game license may be issued to any qualified nonprofit organization for the purposes of operating a game of "beano" or "bingo" for a fee of \$5.00. The special per-game license may not be issued more than 6 times to any one organization in a calendar year. All license fees must be paid to the Treasurer of State to be credited to the General Fund. A license is not assignable or transferable. Nothing contained in this section may be construed to prohibit any volunteer fire department or any agricultural fair association or bona fide nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious, veterans' organization or auxiliary of any of them from obtaining licenses for a period not to exceed 6 months on one application. No more than one license may be issued to any organization for any one period. No more than one licensee may operate or conduct a game of "beano" or "bingo" on the same premises on the same date.

**Sec. 2. 17 MRSA §317, first ¶**, as amended by PL 1985, c. 180, is further amended to read:

The Chief of the State Police ~~shall have~~ has the power to ~~make and~~ adopt rules and regulations, not inconsistent with law, which ~~he may deem~~ are necessary for the administration and enforcement of this chapter and for the licensing, conduct and operation of the amusement commonly known as "Beano" or "Bingo." ~~He shall have~~ The Chief of the State Police has the power and authority to regulate, supervise and exercise general control over the operation of such amusement, including, but not limited to, the payment of prizes and the use of equipment. Any rule ~~promulgated~~ adopted by the Chief of the State Police concerning the value of prizes that may be awarded ~~shall~~ must include a provision that no single prize may exceed \$400 in value and that no more than \$1,400 in total prizes may