

# 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**

**2. Terms.** Members of the advisory committee are appointed for terms as follows:

A. Members representing the Maine Education Assistance Board serve a term coterminous with their appointment to the Maine Education Assistance Board; and

B. Two of the remaining members appointed by the Governor under subsection 1, paragraphs C and D must be appointed for initial terms of 2 years and the other 2 members must be appointed for initial terms of 4 years. Thereafter, members must be appointed for terms of 4 years. Members may be removed for cause.

**3. Compensation.** Members of the advisory committee are compensated in accordance with Title 5, chapter 379.

#### **§11485. Rulemaking**

The authority must establish rules for the implementation of the program established by this chapter, including rules establishing fees and penalties and rules necessary to ensure treatment as a qualified state tuition program for federal tax purposes. Rules adopted pursuant to this section, including those setting fees and penalties, are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. The authority shall submit a report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by January 30, 1999 on the rules and rule-making process to implement a program providing limits on future increases in the costs of education of participating institutions of higher education pursuant to section 11474, subsection 8.

#### **§11486. Liberal construction**

This chapter must be construed liberally in order to effectuate its legislative intent.

**Sec. 5. 36 MRSA §5122, sub-§2, ¶H,** as amended by PL 1995, c. 639, §16, is further amended to read:

H. For each taxable year subsequent to the year of the loss, an amount equal to the absolute value of the net operating loss arising from tax years beginning on or after January 1, 1989, but before January 1, 1993, for which federal adjusted gross income was increased in accordance with subsection 1, paragraph H and that pursuant to the Code, Section 172 was carried back for federal income tax purposes, but only to the extent that:

(1) Maine taxable income is not reduced below zero;

(2) The taxable year is within the allowable federal period for carry-over; and

(3) The amount has not been previously used as a modification pursuant to this subsection; ~~and~~

**Sec. 6. 36 MRSA §5122, sub-§2, ¶I,** as amended by PL 1995, c. 639, §17, is further amended to read:

I. For income tax years beginning on or after January 1, 1991, an amount equal to the amount by which federal taxable income was reduced because of vessel earnings from fishing operations that were contributed to a capital construction fund; ~~and~~

**Sec. 7. 36 MRSA §5122, sub-§2, ¶J** is enacted to read:

J. Any amount constituting a qualified withdrawal from an account established pursuant to Title 20-A, chapter 417-E and used for paying higher education expenses.

See title page for effective date.

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## CHAPTER 733

H.P. 1492 - L.D. 2091

### An Act Providing for Additional Meetings in the Event of a Tie Vote at Town Meetings

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

**Sec. 1. 30-A MRSA §2528, sub-§10,** as amended by PL 1995, c. 13, §1, is further amended to read:

**10. Election by plurality vote; tie vote.** Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless all but one tied candidate withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the ~~5-day~~ 7-day period following the election. After the ~~5-day~~ 7-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

If the meeting is adjourned sine die before a tie vote is resolved or the tie vote is discovered after the meeting adjourns sine die and more than one candidate remains, a new meeting must be called to conduct a run-off election by the method described in this subsection.

See title page for effective date.

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## CHAPTER 734

H.P. 1469 - L.D. 2060

### An Act Regarding Personal Care Assistance Services

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

**Whereas,** persons receiving personal care assistance services through the program administered by the Department of Labor will benefit from the transfer of that program to the Department of Human Services on July 1, 1998; and

**Whereas,** transfer of the program can occur in an orderly manner on July 1, 1998 only if this legislation is enacted on an emergency basis; and

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

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

**Sec. 1. 22 MRSA §5107-B, sub-§1,** as enacted by PL 1995, c. 696, Pt. B, §5, is amended to read:

**1. Membership; terms.** The committee consists of ~~9~~ 11 members appointed by the Governor.

A. ~~Two~~ Four members must be adults with disabilities who are consumers of independent living services, at least one of whom is a consumer of services under the consumer-directed home-based care program. Two members must be family members of individuals who are consumers of long-term care services, one of whom must represent persons with Alzheimer's disease or other dementia. Five members must be individuals over 65 years of age.

B. A member of the committee may not have any financial or governance interest in the provision of long-term care services.

**Sec. 2. 22 MRSA §§5107-C to 5107-F** are enacted to read:

#### **§5107-C. Program established**

The department shall establish a program of personal care assistance services, including consumer-directed personal care assistance services, for adults with long-term care needs who are eligible under section 5107-D.

#### **§5107-D. Eligibility for services under the personal care assistance program**

An adult with long-term care needs is eligible for personal care assistance services under the personal care assistance program under section 5107-C, referred to in this section as the "program," if the department or its designee determines that the adult:

**1. Severe disability.** Has a severe disability;

**2. Need for services.** Needs personal care assistance services or an attendant at night or both, which services are necessary to prevent or remove the adult from inappropriate placement in an institutional setting; and

**3. Income and support.** Has no or insufficient personal income or other support from public services, family members or neighbors. A sliding scale must be established for services provided under the program. The sliding scale must be based on the net income of individuals who receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual.

#### **§5107-E. Evaluation teams**

**1. Team designation.** The commissioner shall designate evaluation teams in the State to assist the department with evaluations of adults with long-term care needs who apply for personal care assistance services under section 5107-C.

**2. Membership.** Each evaluation team must include at least one registered nurse or registered occupational therapist and the adult with long-term care needs.

**3. Duties.** For each adult with long-term care needs evaluated by an evaluation team, the team shall assist the department to:

A. Determine the eligibility of the adult for personal care assistance services;