

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.

J.S. McCarthy Company
Augusta, Maine
1997

PART B

Sec. B-1. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the State Controller is authorized to transfer \$784,973 from the Tobacco Tax Relief Fund to the General Fund unappropriated surplus in fiscal year 1998-99, no later than December 31, 1998.

PART C

Sec. C-1. PL 1997, c. 643, Pt. S, §§2 to 4 are amended to read:

Sec. S-2. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Controller is authorized to transfer \$36,000,000 from the Tax Relief Fund for Maine Residents to the General Fund unappropriated surplus in fiscal year 1998-99, no later than December 31, 1998.

Sec. S-3. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Controller is authorized to transfer \$6,347,667 from the Tax Relief Fund for Maine Residents to the General Fund unappropriated surplus in fiscal year 1998-99, no later than December 31, 1998.

Sec. S-4. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Controller shall transfer from the Tax Relief Fund for Maine Residents reserve in the General Fund to General Fund unappropriated surplus \$15,521,131 in fiscal year 1997-98 and \$37,694,872 in fiscal year 1998-99, no later than December 31, 1998.

Sec. C-2. PL 1997, c. 643, Pt. HHH, §§8 and 9 are amended to read:

Sec. HHH-8. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Controller is authorized to transfer \$47,051,828 from the Tax Relief Fund for Maine Residents to the General Fund unappropriated surplus in fiscal year 1998-99, no later than December 31, 1998.

Sec. HHH-9. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 5, section 1585, or any other provision of law, the State Controller is authorized to transfer \$29,080,192 from the Tobacco Tax Relief Fund to the General Fund unappropriated surplus in fiscal year 1998-99, no later than December 31, 1998.

PART D

Sec. D-1. PL 1997, c. 643, Pt. T, §§5 and 6 are amended to read:

Sec. T-5. Tax Relief Fund for Maine Residents; Tobacco Tax Relief Fund; lapsed balances. Notwithstanding any other provisions of law, any unencumbered balance in the Tax Relief Fund for Maine Residents or the Tobacco Tax Relief Fund lapses to the General Fund ~~at the end of fiscal year 1998-99.~~

Sec. T-6. Effective date. This Part takes effect ~~June 30, 1999~~ December 31, 1998.

See title page for effective date.

CHAPTER 751

S.P. 853 - L.D. 2266

**An Act to Implement the
Recommendations of the
Commission to Study the Funding
and Distribution of Teletypewriters
and Other Telecommunications
Equipment for People with
Disabilities**

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

Whereas, this Act is necessary as an emergency measure to allow the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities to continue its work immediately following the Second Regular Session of the 118th Legislature; and

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

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

PART A

Sec. A-1. 26 MRSA §1419, sub-§1, ¶¶B-1 and B-2 are enacted to read:

B-1. "Person with a disability" means a person who is unable to communicate by telephone be-

cause of a vision, mobility or other physical or mental impairment.

B-2. "Specialized customer telecommunications equipment" means telecommunications equipment used by persons with disabilities to conduct telephone communications. "Specialized customer telecommunications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, fax machines or other equipment used by persons with disabilities to provide access to telephone networks.

Sec. A-2. 26 MRSA §1419, sub-§1, ¶D, as enacted by PL 1995, c. 560, Pt. F, §13, is repealed.

Sec. A-3. 26 MRSA §1419, sub-§2, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

2. Specialized customer telecommunications equipment system. The department shall consult with appropriate agencies and organizations serving ~~the deaf community~~ deaf, hard-of-hearing or speech-impaired persons and persons with disabilities concerning the needs of the ~~teletypewriter~~ specialized customer telecommunications equipment system. To the extent that funds are available, the department shall take steps necessary to preserve and maintain a viable ~~teletypewriter~~ specialized customer telecommunications equipment system for use by ~~the deaf population~~ deaf, hard-of-hearing or speech-impaired persons and persons with disabilities in this State, including, but not limited to, providing for repair services and equipment for loaning to persons whose ~~teletypewriter~~ specialized customer telecommunications equipment is being repaired.

Sec. A-4. 26 MRSA §1419-A, as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

§1419-A. Specialized customer telecommunications equipment for persons with disabilities

1. Money for specialized customer telecommunications equipment. The Bureau of Rehabilitation Services within the department, pursuant to appropriation of money to the bureau for ~~special telecommunication~~ specialized customer telecommunications equipment for deaf, hard-of-hearing and speech-impaired persons and persons with disabilities, shall, upon request, provide up to 50% of the cost of ~~special telecommunication~~ specialized customer telecommunications equipment to an organization or municipality that makes available the remaining funds for this equipment in a manner satisfactory to the Director of the Bureau of Rehabilitation Services.

2. Telecommunications Equipment Fund.

There is established the Telecommunications Equipment Fund to be used by the Division of Deafness within the Bureau of Rehabilitation Services. The Division of Deafness may accept gifts or grants for the purposes of this section. These gifts and grants and authorized appropriations must be deposited in the Telecommunications Equipment Fund and disbursed in accordance with this section. The Telecommunications Equipment Fund may be used for purchase, lease, distribution, upgrading, installation, maintenance and repair of ~~special~~ specialized customer telecommunications equipment for deaf, hard-of-hearing or speech-impaired persons and persons with disabilities. The Division of Deafness may draw on the Telecommunications Equipment Fund in accordance with the telecommunications equipment plan required under subsection 3.

3. Telecommunications equipment plan.

The Division of Deafness shall develop a plan to make ~~special~~ specialized customer telecommunications equipment available to deaf, hard-of-hearing or speech-impaired persons and persons with disabilities and to distribute money from the Telecommunications Equipment Fund. The plan must be developed by the Division of Deafness annually, not later than January 1st, in accordance with the rule-making procedures in Title 5, chapter 375. The plan must provide for the expenditure of money from the Telecommunications Equipment Fund for the benefit of deaf, hard-of-hearing or speech-impaired persons and persons with disabilities for the purchase, lease, distribution, upgrading, installation, maintenance and repair of ~~special~~ specialized customer telecommunications equipment capable of serving their needs. Persons who are profoundly deaf or speech impaired or who have a disability so that they are unable to use the telephone for expressive or receptive communications, as verified by a written report from an otologist, an audiologist or a physician, are eligible for assistance from the Telecommunications Equipment Fund. The plan must ensure that persons with disabilities have access to appropriate specialized customer telecommunications equipment to meet their individual needs. The plan must include specific criteria that govern the priorities assigned to various persons who need this equipment. The criteria must take into account household income, degree of impairment, need for emergency communications, living arrangements and other factors determined relevant by the Division of Deafness. In developing the criteria, the Division of Deafness shall consult with the advisory council established in section 1413-C and other advisory councils representing the interests of persons with disabilities.

4. Specialized customer telecommunications equipment needs in the public school system. The Department of Education, in consultation with the

Governor Baxter School for the Deaf and advocacy groups for deaf and hard-of-hearing persons and for the information technology interests of consumers, shall conduct an annual survey of all public schools in the State for the purpose of assessing the need for specialized customer telecommunications equipment in the school system and report its findings to the joint standing committee of the Legislature having jurisdiction over labor matters. The report must include: the number of deaf and hard-of-hearing students and their needs for specialized customer telecommunications equipment; the availability of specialized customer telecommunications equipment; the number of requests for specialized customer telecommunications equipment; and the status of training for teachers and other school personnel in the use of specialized customer telecommunications equipment.

Sec. A-5. Assessment for specialized customer telecommunications equipment. The activities authorized under the Maine Revised Statutes, Title 26, section 1419-A, subsection 2 must be funded through an annual assessment for specialized telecommunications equipment to be levied on each interexchange carrier, local exchange carrier, reseller and mobile telecommunications carrier that provides telecommunications service in the State. The assessment must be based on the amount of revenues that each carrier receives from the services that it provides to customers in this State. The level of the assessment must be established each year by the Public Utilities Commission. For fiscal year 1998-99, the assessment must be set at a level that will generate an additional \$85,000 in order to provide additional funding for the purchase and distribution of specialized customer telecommunications equipment. These funds must be deposited into the Telecommunications Equipment Fund established by Title 26, section 1419-A, subsection 2. These funds may not lapse but must be carried forward for the purposes identified in Title 26, section 1419-A, subsection 2.

Sec. A-6. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

LABOR, DEPARTMENT OF

Rehabilitation Services

All Other	\$85,000
Provides additional allocations for the Telecommunications Equipment Fund to allow the distribution of certain specialized customer	

telecommunications equipment.

PART B

Sec. B-1. Resolve 1997, c. 72, §5 is amended to read:

Sec. 5. Report. Resolved: That the commission shall prepare a written report of its findings and submit ~~the a~~ report, together with any necessary implementing legislation, to the Second Regular Session of the 118th Legislature by January 1, 1998. ~~If the commission requires an extension, it may apply to the Legislative Council, which may grant the extension.~~ The commission shall continue its study and may meet one time after the adjournment of the Second Regular Session of the 118th Legislature. The commission shall submit a final report that may include any necessary implementing legislation to the First Regular Session of the 119th Legislature by January 15, 1999; and be it further

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

1997-98

LEGISLATURE

Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities

Personal Services	\$165
All Other	1,150

Provides funds for the per diem and expenses of legislative members, interpreter services and miscellaneous costs, including printing, of the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities.

LEGISLATURE TOTAL

\$1,315

Sec. B-3. Retroactivity. This Part applies retroactively to January 1, 1998.

PART C

Sec. C-1. Comprehensive plan. The Division of Deafness within the Bureau of Rehabilitation Services in the Department of Labor and the Telecommunications Relay Services Advisory Council, in consultation with an association representing the State's telephone companies, the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities and other advisory councils representing the interests of persons with disabilities, shall develop a comprehensive long-range plan to provide deaf, hard-of-hearing and speech-impaired persons and persons with disabilities direct access to specialized customer telecommunications equipment and other telecommunications equipment throughout the State. The plan must be presented to the 119th Legislature by January 15, 1999. The plan must develop recommendations for a request-for-proposal to develop statewide direct access to telephone networks for deaf, hard-of-hearing and speech-impaired persons and persons with disabilities. The request-for-proposal recommendations may address bid specifications and performance standards for the following contract provisions: public awareness and outreach programs, including a toll-free number; customer intake and connection procedures; statewide distribution and storage capacity; customer access to network services on a 24-hour-a-day basis, including equipment installation and training; and maintenance and repairs of specialized customer telecommunications equipment and other telecommunications equipment.

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

Effective April 15, 1998.

CHAPTER 752

S.P. 834 - L.D. 2232

An Act to Improve the Delivery and Effectiveness of State Correctional Services

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

Sec. 1. 4 MRSA §1606, sub-§2, as amended by PL 1997, c. 523, §15, is further amended to read:

2. Limitation on securities issued. The authority may not issue securities in excess of \$60,000,000 outstanding at any one time, of which no less than \$30,000,000 must be specifically allocated to projects relating to the Judicial Branch, except for the issuance

of revenue refunding securities authorized by section 1610 and securities issued under section 1610-A. The amount of securities that may be outstanding in the name of the authority may be increased by the Legislature upon a showing by the authority that its available revenues are sufficient to support additional issuance of securities and that the issuance of securities will not materially impair the credit standing of the authority, the investment status of securities issued by the authority or the ability of the authority to fulfill its commitments to holders of securities. Nothing in this chapter may be construed to authorize the authority to issue securities to fund the construction, reconstruction, purchase or acquisition of facilities without a 2/3 vote of approval in each House of the Legislature.

Sec. 2. 4 MRSA §1610-A is enacted to read:

§1610-A. Additional securities

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$85,000,000 outstanding at any one time for correctional facilities.

Sec. 3. 5 MRSA §12004-I, sub-§4-A is enacted to read:

<u>4-A.</u>	<u>Policy</u>	<u>Not</u>	<u>34-A</u>
<u>Corrections</u>	<u>Review</u>	<u>Authorized</u>	<u>MRSA</u>
	<u>Council</u>		<u>§3002-A</u>

Sec. 4. 5 MRSA §12004-I, sub-§15-A, as enacted by PL 1991, c. 764, §1, is repealed.

Sec. 5. 15 MRSA §3006, as enacted by PL 1989, c. 925, §3, is repealed.

Sec. 6. 15 MRSA §3103, sub-§2, as amended by PL 1995, c. 470, §4, is further amended to read:

2. Dispositional powers. All of the dispositional powers of the Juvenile Court provided in section 3314 apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or other detention may be imposed for conduct described in subsection 1, paragraphs B and C.

Sec. 7. 15 MRSA §3203-A, sub-§1, ¶B-1, as amended by PL 1997, c. 24, Pt. RR, §1, is further amended to read:

B-1. When, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile from imminently inflicting bodily harm on others or the juvenile, the officer may refer the juvenile for temporary,