

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

expenses or charges. "Covered property" includes all tangible property, other than tangible property described in Title 33, section 1954, located in or on real estate that has been determined to be a dangerous building pursuant to Title 17, chapter 91, subchapter IV.

B. "Political subdivision" has the same meaning as in section 2252.

2. Procedure. A political subdivision may dispose of covered property that has been abandoned in accordance with this section.

A. The municipal officers in the case of a city, town or plantation, the county commissioners in the case of a county and in all other cases the governing board of a political subdivision, or the designee of any of these, may give written notice to the owner or owners of covered property, if known, instructing the owner or owners to remove the covered property from the real estate in or on which it is located within 21 days after receipt of the notice.

B. Notice must be mailed by certified mail, return receipt requested, to the owner or owners of the covered property. Notice is sufficient under this paragraph if the signed receipt is returned or the certified mail is returned as refused by the recipient.

C. If sufficient notice was not given under paragraph B or if, with reasonable diligence, the identity or the address of an owner or owners can not be determined, the notice is sufficient if it is not mailed but published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the covered property is located.

D. The political subdivision has no responsibility to safeguard or otherwise preserve or protect the covered property pending restoration to its owner or other disposal.

3. Content of notice. Whether mailed or published, notice need not include a roster or inventory of the covered property, but need only state that tangible personal property that may belong to the addressee, owner or former owner is located in or on real property within the ownership or control of the political subdivision, and that on contact with the originating political subdivision, arrangements can be made for removal of covered property belonging to that addressee, owner or former owner.

4. Disposal of covered property. If the covered property is not claimed within 21 days after notice is given under subsection 2 or if the owner or owners have claimed the property within the 21 days but have

not taken possession of the property within 10 days of claiming it, the political subdivision shall:

A. Sell the covered property in a commercially reasonable manner; or

B. If the property has no market value, otherwise dispose of the property.

5. Deposit of funds. After the sale of the property, the political subdivision may apply proceeds from the sale to unpaid taxes, assessments and expenses of storage, notice and sale. Any balance and the records of the sale must be reported and delivered to the Treasurer of State in accordance with Title 33, section 1959, subsection 1.

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

Effective April 11, 2000.

CHAPTER 668

H.P. 1932 - L.D. 2676

An Act to Repeal Certain Inactive Boards and Commissions and to Amend Certain Laws Governing Boards and Commissions

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

Sec. 1. 5 MRSA §49, as amended by PL 1995, c. 368, Pt. HH, §1, is repealed.

Sec. 2. 5 MRSA §50, as enacted by PL 1993, c. 476, §1, is repealed.

Sec. 3. 5 MRSA §453-A, sub-§1, as enacted by PL 1991, c. 799, §3 and c. 883, §1, is amended to read:

1. Appointment. The members of the board are appointed by the Governor and are subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and to confirmation by the Legislature, except that the Governor may not appoint any members to the board until such time as funds accrue to the Mining Excise Tax Trust Fund.

Sec. 4. 5 MRSA §454-A, sub-§5, as enacted by PL 1991, c. 799, §5, is amended to read:

5. Biennial report and annual plan. The Upon appointment of the board members pursuant to section 453-A, subsection 1, the board shall prepare:

A. A biennial report to be submitted to the Governor and the Legislature. The report must include an audited financial statement of the fund and a listing of activities undertaken by the board in the preceding biennium. The report must be submitted 30 days prior to the convening of each first regular session of the Legislature; and

B. An annual general plan of expenditures and activities of the coming year. The general plan must be submitted to the Legislature for approval 30 days prior to the convening of each regular session.

Sec. 5. 5 MRSA §1589, sub-§4, as amended by PL 1995, c. 464, §13, is further amended to read:

4. Copies of proposals to Bureau of the Budget and Office of Fiscal and Program Review. Copies of each approved proposal for the expenditure of funds available in each departmentwide and statewide account in accordance with subsection 2 must be submitted from each department's or agency's quality management council and the Maine Quality Management Council, respectively, to the Bureau of the Budget and the Office of Fiscal and Program Review.

Sec. 6. 5 MRSA §1589, sub-§6, as repealed by PL 1995, c. 368, Pt. HH, §5 and as amended by PL 1995, c. 464, §13, is repealed and the following enacted in its place:

6. Report required. The Department of Administrative and Financial Services shall report to the joint standing committees of the Legislature having jurisdiction over state and local government matters and appropriations and financial affairs annually no later than February 1st, the following:

A. The total amount appropriated or allocated, by department, under this section;

B. A description of initiatives submitted under subsection 4; and

C. A recommendation from the Department of Administrative and Financial Services on any changes needed to further total quality management efforts in State Government.

Sec. 7. 5 MRSA §1877-A, sub-§1, ¶C, as amended by PL 1997, c. 618, §1, is further amended to read:

C. The degree to which personnel needs of state agencies are being met. ~~This portion of the report must also include the evaluation of the Civil Service Policy Review Board with respect to this same issue;~~

Sec. 8. 5 MRSA §7032, sub-§7, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

Sec. 9. 5 MRSA §7034, sub-§2, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

2. Cooperate with agencies. ~~Cooperate with the Policy Review Board~~ and work closely with all state agencies with respect to the personnel needs and matters of each agency. The bureau shall strive to ~~assure~~ ensure that personnel policies are understood and carried out by the agencies;

Sec. 10. 5 MRSA §7036, sub-§§3, 5, 6 and 8, as enacted by PL 1985, c. 785, Pt. B, §38, are amended to read:

3. Provide information. Provide information to Bureau of Employee Relations, ~~work with the Policy Review Board~~ and ~~assure~~ ensure that the needs of the departments, agencies and state employees and the policies developed pursuant to these needs are provided to the Bureau of Employee Relations;

5. Be responsible for development and implementation of system of registers of eligibles. Be responsible for the development and use of registers of eligibles and the updating of these registers ~~in accordance with policies and procedures approved by the Policy Review Board.~~

The director shall implement the procedures authorized by this subsection with the goal to establish an efficient hiring process that meets the satisfaction of the agencies that the office serves;

6. Develop and oversee job application process. Develop and oversee the administration of the job application process ~~in accordance with policies and procedures approved by the Policy Review Board~~ with the goal to establish a very efficient process that meets the needs established in subsection 4;

8. Establish and implement job performance evaluation process. Establish and implement, ~~in accordance with policies and procedures approved by the Policy Review Board~~, an employee job performance evaluation process to be used by all agencies with employees in the classified service. The job performance evaluation procedure ~~shall~~ must be consistent in its use and application among all classified service employees;

Sec. 11. 5 MRSA §7036, sub-§16, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

Sec. 12. 5 MRSA §7038, first ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The director ~~in consultation with the Policy Review Board shall be~~ is responsible for the development

and monitoring of a ~~communications~~ communications process between management and subordinate employees in each agency of State Government.

Sec. 13. 5 MRSA §7041, as corrected by RR 1995, c. 2, §6, is repealed.

Sec. 14. 5 MRSA §7042, as amended by PL 1987, c. 240, §2, is repealed.

Sec. 15. 5 MRSA §7051, sub-§6, ¶B, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

B. The director ~~and Policy Review Board~~ shall establish a policy to protect persons in temporary positions from remaining in a temporary position for an unreasonable period of time, not to exceed one year, as determined by the board.

Sec. 16. 5 MRSA §7052, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

§7052. Appointments and promotions

Appointments to and promotions in the classified service ~~shall~~ must be made according to merit and fitness, from eligible lists developed by the director pursuant to procedures and policies established by the director ~~and the Policy Review Board~~. ~~No~~ A person may not be appointed, transferred, promoted or reduced as an officer, clerk or employee or laborer in the classified service in any manner or by any means other than those prescribed by law or rule pursuant to this chapter.

Sec. 17. 5 MRSA §7061, first ¶, as repealed and replaced by PL 1987, c. 541, is amended to read:

The director, in accordance with policies and procedures established by the director ~~and the Policy Review Board~~ and in accordance with this section, shall record the duties and responsibilities of all positions in state service and establish classes for these positions. The titles of the positions and classes ~~shall~~ must be used in all personnel, accounting, budget, appropriation and financial records of all state departments, commissions and institutions.

Sec. 18. 5 MRSA §7062, first ¶, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

The director, in accordance with policies and procedures established by the director ~~and the board~~, shall prepare for each class of positions in the classified service registers of persons eligible for appointment to positions in each class. Each eligible register ~~shall consist~~ consists of a list of all the persons who have shown by competitive tests, as provided in section 7063, that they possess the qualifications ~~which~~ that entitle them to be considered eligible for

appointment to any position in the class for which the eligible register is to be prepared, and of employees who have resigned or been dismissed, laid off or granted leaves of absence and whose names have been restored to the eligible register in accordance with this chapter.

Sec. 19. 5 MRSA §7062, sub-§2, as enacted by PL 1985, c. 785, Pt. B, §38, is amended to read:

2. Establishment of direct hire procedures. The director ~~in consultation with the Policy Review Board~~ shall, based on recruitment and retention needs and the provision of section 7036, subsection 22, establish where practicable direct hire procedures.

Sec. 20. 5 MRSA §12004-F, sub-§14, as enacted by PL 1989, c. 503, Pt. A, §11, is repealed.

Sec. 21. 5 MRSA §12004-G, sub-§6, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 22. 5 MRSA §12004-G, sub-§6-A, as enacted by PL 1993, c. 381, §3, is repealed.

Sec. 23. 5 MRSA §12004-G, sub-§8-A, as amended by PL 1991, c. 843, §1, is repealed.

Sec. 24. 5 MRSA §12004-G, sub-§26-C, as enacted by PL 1995, c. 541, §1, is repealed.

Sec. 25. 5 MRSA §12004-G, sub-§27-A, as enacted by PL 1989, c. 529, §1, is repealed.

Sec. 26. 5 MRSA §12004-G, sub-§28, as amended by PL 1995, c. 560, Pt. K, §3 and affected by §83, is repealed.

Sec. 27. 5 MRSA §12004-H, sub-§2, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 28. 5 MRSA §12004-H, sub-§9, as amended by PL 1989, c. 503, Pt. A, §21, is repealed.

Sec. 29. 5 MRSA §12004-H, sub-§11, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 30. 5 MRSA §12004-I, sub-§6-D, as corrected by RR 1993, c. 2, §5, is repealed.

Sec. 31. 5 MRSA §12004-I, sub-§19, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 32. 5 MRSA §12004-I, sub-§20-A, as enacted by PL 1989, c. 486, §1 and c. 503, Pt. A, §25, is repealed.

Sec. 33. 5 MRSA §12004-I, sub-§37-B, as enacted by PL 1993, c. 410, Pt. FFF, §2, is repealed.

Sec. 34. 5 MRSA §12004-I, sub-§47-B, as enacted by PL 1993, c. 381, §7, is repealed.

Sec. 35. 5 MRSA §12004-I, sub-§§58-A, 58-B and 58-C, as enacted by PL 1989, c. 931, §1, are repealed.

Sec. 36. 5 MRSA §12004-I, sub-§58-D, as enacted by PL 1991, c. 319, §1, is repealed.

Sec. 37. 5 MRSA §12004-I, sub-§59, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 38. 5 MRSA §12004-I, sub-§§59-B and 59-C, as enacted by PL 1991, c. 316, §1, are repealed.

Sec. 39. 5 MRSA §12004-I, sub-§63, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 40. 5 MRSA §12004-I, sub-§65, as amended by PL 1993, c. 738, Pt. B, §1 and affected by §9, is repealed.

Sec. 41. 5 MRSA §12004-I, sub-§72-C, as enacted by PL 1995, c. 379, §2, is repealed.

Sec. 42. 5 MRSA §12004-I, sub-§77-A, as enacted by PL 1993, c. 476, §4, is repealed.

Sec. 43. 5 MRSA §12004-I, sub-§83, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 44. 5 MRSA §12004-L, sub-§§7 and 9, as amended by PL 1993, c. 738, Pt. B, §2 and affected by §9, are repealed.

Sec. 45. 5 MRSA §12005-A, first ¶, as amended by PL 1991, c. 844, §1, is amended to read:

Every board listed in this chapter is required to appoint a clerk of the board who is responsible for submitting reports to the Secretary of State as required by this chapter. This clerk shall submit an annual report to the Secretary of State on forms provided by the Secretary of State. This report must be submitted no later than December ~~15th~~ 31st of each calendar year and must include information required by this section and any other information ~~deemed determined~~ necessary by the Secretary of State to fulfill the purposes of this chapter. This information must include:

Sec. 46. 5 MRSA §12005-A, sub-§8, as corrected by RR 1993, c. 1, §15, is amended to read:

8. Vacancies. The number of vacancies on the board on December ~~15th~~ 31st and the term of the vacancy.

Sec. 47. 5 MRSA §12006, sub-§§1 and 2, as repealed and replaced by PL 1993, c. 349, §13, are amended to read:

1. Notice of failure to report. The Secretary of State shall send notice by certified mail on or before January ~~15th~~ 5th of each year to any board that has failed to report pursuant to section 12005-A.

2. Legislative repeal of inactive boards. The Secretary of State shall submit legislation to the joint standing committee of the Legislature having jurisdiction over state government matters on or before ~~March 2nd~~ January 15th in the first regular session of each biennium to repeal those boards that have not reported on their activities to the Secretary of State under this section or section 12005-A during either of the prior 2 calendar years or have been inactive during the preceding 24 months.

Sec. 48. 5 MRSA §12009, sub-§1, as amended by PL 1991, c. 780, Pt. Y, §105, is further amended to read:

1. Report to Commissioner of Administrative and Financial Services. The Secretary of State, by January ~~30th~~ 15th of each year, shall submit to the Commissioner of Administrative and Financial Services a list of the boards, with the name and address of each clerk who failed to report as required in section 12005-A.

Sec. 49. 5 MRSA §12015, sub-§2, as enacted by PL 1983, c. 814, is repealed.

Sec. 50. 5 MRSA §13127, as amended by PL 1999, c. 556, §7, is repealed.

Sec. 51. 5 MRSA §13128, as amended by PL 1989, c. 903, §3, is repealed.

Sec. 52. 5 MRSA §13129, as amended by PL 1993, c. 410, Pt. E, §20, is repealed.

Sec. 53. 5 MRSA §13130, sub-§4, as amended by PL 1993, c. 410, Pt. E, §21, is further amended to read:

4. Use and administration of trust. Trust funds must be used to provide grants to meet the purposes of this section. ~~Administration of the awards is pursuant to section 13129. In addition, the~~ The foundation shall administer the trust as follows.

A. Unless otherwise specified by the source of a contribution to the trust, 50% of a contribution to the trust must be deposited in a principal account and maintained as a permanent endowment. The income earned on funds held in this account, combined with the remaining 50% of funds contributed to the trust, must be deposited in an operating account and made available for disbursement as grants to accomplish the purposes of this section and as expenditures for purposes of administering the trust.

B. An executive agency is not eligible to receive funding from the trust unless the agency jointly undertakes a research proposal with another entity that is not an executive agency.

C. The foundation shall give preference to institutions, organizations or entities located and operated in the State.

D. Principal, or interest earned from principal, with special instructions from contributors must be awarded in accordance with the contributors' instructions.

E. All money in the trust not immediately required for payment, pursuant to the provisions of this chapter, must be invested by the Treasurer of State as authorized by section 138, except that the securities in which the trust money is invested must remain part of the trust until exchanged for other securities and the income from all investments must remain a part of the trust unless prohibited by federal law.

Sec. 54. 5 MRSA §13130, sub-§5, as enacted by PL 1989, c. 903, §6, is amended to read:

5. Report, amendment and termination of trust. The ~~board~~ foundation shall file a report as follows.

A. The ~~board~~ foundation shall report to the Legislature on a biennial basis concerning the activities of the trust. ~~The report may be submitted as part of the research priorities statement required pursuant to section 13128, subsection 1.~~

B. In the event the ~~board~~ foundation determines that the provisions of the trust should be amended, the ~~board~~ foundation shall make appropriate recommendations to the Legislature in its biennial report.

C. The ~~board~~ foundation may recommend in its biennial report that the trust be terminated if termination is determined to be appropriate ~~by unanimous vote of the board~~. In the event that the Legislature terminates the trust, the principal and operating funds are disbursed in a manner consistent with the purpose of the trust.

Sec. 55. 5 MRSA §17159, sub-§4, as amended by PL 1997, c. 651, §4, is repealed.

Sec. 56. 5 MRSA §17159, sub-§§5 to 7, as enacted by PL 1995, c. 541, §3, are repealed.

Sec. 57. 5 MRSA §19111, as corrected by RR 1995, c. 2, §15, is repealed.

Sec. 58. 5 MRSA §19112, as amended by PL 1997, c. 342, §§1 and 2, is repealed.

Sec. 59. 5 MRSA §19113, as enacted by PL 1993, c. 738, Pt. B, §3 and affected by §9, is repealed.

Sec. 60. 5 MRSA §19114, as amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is repealed.

Sec. 61. 5 MRSA §19115, as enacted by PL 1993, c. 738, Pt. B, §3 and affected by §9, is repealed.

Sec. 62. 7 MRSA §231, as amended by PL 1993, c. 410, Pt. E, §22, is repealed.

Sec. 63. 7 MRSA §232, as amended by PL 1991, c. 837, Pt. A, §16, is repealed.

Sec. 64. 7 MRSA §233, as amended by PL 1989, c. 798, §2, is repealed.

Sec. 65. 7 MRSA §§234 to 236, as enacted by PL 1987, c. 805, §2, are repealed.

Sec. 66. 7 MRSA §423, sub-§3, as enacted by PL 1981, c. 154, §1, is repealed.

Sec. 67. 7 MRSA §427, as amended by PL 1989, c. 503, Pt. B, §41, is repealed.

Sec. 68. 7 MRSA §§428 to 430, as enacted by PL 1981, c. 154, §1, are repealed.

Sec. 69. 7 MRSA §993, sub-§1 is repealed.

Sec. 70. 7 MRSA §995, as amended by PL 1989, c. 503, Pt. B, §43, is repealed.

Sec. 71. 7 MRSA §996, as amended by PL 1981, c. 513, §11, is repealed.

Sec. 72. 7 MRSA §997, as amended by PL 1977, c. 694, §§92 to 96, is repealed.

Sec. 73. 7 MRSA §§998 to 1006, as amended by PL 1981, c. 513, §11, are repealed.

Sec. 74. 7 MRSA §1008, as amended by PL 1985, c. 450, is repealed.

Sec. 75. 7 MRSA §1008-A, as amended by PL 1987, c. 434, §1, is repealed.

Sec. 76. 7 MRSA §1008-B, as corrected by RR 1997, c. 2, §27, is repealed.

Sec. 77. 7 MRSA §§1008-C and 1008-F, as amended by PL 1985, c. 450, are repealed.

Sec. 78. 7 MRSA §1008-G, as amended by PL 1987, c. 434, §4, is repealed.

Sec. 79. 7 MRSA §1008-I, as enacted by PL 1989, c. 181, is repealed.

Sec. 80. 10 MRSA §318 is enacted to read:

§318. Repeal

This chapter is repealed August 1, 2003.

Sec. 81. 10 MRSA §1414, as amended by PL 1989, c. 503, Pt. B, §53, is repealed.

Sec. 82. 12 MRSA §6455, sub-§7, as enacted by PL 1993, c. 545, §6, is amended to read:

7. Audit. Beginning with fiscal year 1994-95, an annual audit of the expenditures of the council must be performed. The council may contract with the Department of Audit shall annually perform a postaudit of expenditures by the or with a private sector accounting firm to conduct the audit. The council and shall report the results of that audit to the joint standing committee of the Legislature having jurisdiction over marine resource matters. The If the annual audit is performed by the Department of Audit, the council shall reimburse the Department of Audit department for its costs incurred by that department to conduct that audit.

Sec. 83. 20-A MRSA §7724, sub-§1, as amended by PL 1997, c. 534, §4, is further amended to read:

1. Establishment. The Child Development Services System is established for the purpose of maintaining a coordinated service delivery system for the provision of childfind activities for children, from birth to under age 6, early intervention services for eligible children, from birth to under age 3, and free, appropriate and public education services for eligible children, from age 3 to under age 6, who have a disability. The Child Development Services System consists of regional sites organized as intermediate educational units or as private nonprofit corporations; and one state-level intermediate educational unit and the Interdepartmental Coordinating Council for Early Intervention advisory board. The Child Development Services System shall ensure application of the provisions of this chapter statewide through a contractual or grant relationship between the Department of Education and each regional site.

Sec. 84. 20-A MRSA §7725, sub-§6, as enacted by PL 1991, c. 843, §3, is repealed.

Sec. 85. 20-A MRSA §7727, sub-§5, as amended by PL 1997, c. 534, §§7 and 8, is repealed.

Sec. 86. 20-A MRSA §7727, sub-§6, as enacted by PL 1991, c. 843, §3, is amended to read:

6. Regional site compliance. The department, in consultation with regional sites and the Interdepartmental Coordinating Council for Early Intervention

tion, shall develop an action plan with timelines to achieve compliance for regional sites that are not in compliance with federal or state law. The department may assume temporary responsibility for operations at a site that fails to meet compliance requirements.

Sec. 87. 20-A MRSA §7731, sub-§6, as amended by PL 1999, c. 296, §7, is further amended to read:

6. Contracts. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, except that the board shall provide to the department copies of any contract for review upon the department's request and shall obtain prior department approval of the prototype for provider contracts, any multi-year leases and any memoranda of understanding with other entities. Regional site boards of directors shall consider collaboration with school administrative units that are operating or that wish to develop, pursuant to section 4253 or 7734-A, early childhood programs in the regional board's catchment area in order to:

- A. Maximize the benefit of state interdepartmental agreements and efforts;
- B. Maximize the effective use of qualified personnel, facilities and other resources;
- C. Ensure consistent quality of early childhood programming; and
- D. Facilitate the transition process, for children and families, from the Child Development Services System to the public school system;

Sec. 88. 20-A MRSA §7733, as amended by PL 1997, c. 534, §§14 and 15, is repealed.

Sec. 89. 20-A MRSA §7734-C, as amended by PL 1997, c. 534, §19, is repealed.

Sec. 90. 20-A MRSA §7735, as enacted by PL 1991, c. 843, §3, is repealed.

Sec. 91. 20-A MRSA §7802, sub-§5, as enacted by PL 1989, c. 899, §4, is repealed.

Sec. 92. 20-A MRSA §7803, first ¶, as repealed and replaced by PL 1993, c. 349, §47 and amended by PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

An Interdepartmental Committee on Transition pursuant to Title 5, chapter 379, representing the Department of Education, the Department of Human Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Department of Labor, the Department of Corrections,

at least 2 of the local coordination sites and the public, must be appointed by the commissioners ~~to work with the interdepartmental council~~ to establish guidelines, including continuation applications, to monitor grants and to evaluate the performance of area coordination programs developed through the grants.

Sec. 93. 20-A MRSA §7804, sub-§6, as enacted by PL 1989, c. 899, §9, is amended to read:

6. Report. The ~~interdepartmental council committee~~ shall present to the Legislature an annual report on ~~the its~~ activities of the ~~committee~~. This report ~~shall must~~ provide an evaluation summary of the projects and recommendations, including legislation, necessary to support and maintain a statewide transitional services planning and delivery system.

Sec. 94. 22 MRSA §14, sub-§1, as amended by PL 1999, c. 483, §1, is further amended to read:

1. Recovery procedures. When benefits are provided or will be provided to a beneficiary under the Medicaid program administered by the department pursuant to the United States Social Security Act, Title XIX, ~~or under the Maine Health Program, section 3189~~, for the medical costs of injury, disease, disability or similar occurrence for which a 3rd party is, or may be, liable, the commissioner may recover from that party the reasonable value of the benefits provided. This right of recovery is separate and independent from any rights or causes of action belonging to a beneficiary under the Medicaid program ~~or under the Maine Health Program~~. For Medicaid recipients who participated in the Medicaid managed care program, "reasonable value" means the total value of coverable medical services provided measured by the amount that Medicaid would have paid to providers directly for such services, were it not for the managed care system. The Medicaid program ~~and Maine Health Program are~~ is the ~~payors~~ payer of last resort and should provide medical coverage only when there are no other available resources. The Attorney General, or counsel appointed by the Attorney General, may, to enforce this right, institute and prosecute legal proceedings directly against the 3rd party in the appropriate court in the name of the commissioner.

In addition to the right of recovery set forth in this subsection, the commissioner must also be subrogated, to the extent of any benefits provided under the Medicaid program ~~or under the Maine Health Program~~, to any cause of action or claim that a beneficiary has against a 3rd party who is or may be liable for medical costs incurred by or on behalf of the beneficiary. The Attorney General, or counsel appointed by the Attorney General, to enforce this right may institute and prosecute legal proceedings in the name of the injured person, beneficiary, guardian,

personal representative, estate or survivor. If necessary to enforce the commissioner's right of recovery, the Attorney General, or counsel appointed by the Attorney General, may institute legal proceedings against any beneficiary who has received a settlement or award from a 3rd party.

The commissioner's right to recover the reasonable value of benefits provided constitutes a statutory lien on the proceeds of an award or settlement from a 3rd party if recovery for Medicaid costs was or could have been included in the recipient's claim for damages from the 3rd party. The commissioner is entitled to recover the amount of the benefits actually paid out or, with regard to Medicaid recipients who participated in the managed care program when the commissioner has determined that collection will be cost-effective, the reasonable value of benefits provided to the extent that there are proceeds available for such recovery after the deduction of reasonable attorney's fees and litigation costs from the gross award or settlement. In determining whether collection will be cost-effective, the commissioner shall consider all factors that diminish potential recovery by the department, including but not limited to questions of liability and comparative negligence or other legal defenses, exigencies of trial that reduce a settlement or award in order to resolve the recipient's claim and limits on the amount of applicable insurance coverage that reduce the claim to the amount recoverable by the recipient. The department's statutory lien may not be reduced to reflect an assessment of a pro rata share of the recipient's attorney's fees or litigation costs. The commissioner may compromise, or settle and execute a release of, any claim or waive any claim, in whole or in part, if the commissioner determines the collection will not be cost-effective or that the best possible outcome requires compromise, release or settlement.

Sec. 95. 22 MRSA §14, sub-§2-A, as amended by PL 1991, c. 9, Pt. N, §2, is further amended to read:

2-A. Assignment of rights of recovery. The receipt of benefits under the Medicaid program administered by the department pursuant to the United States Social Security Act, Title XIX, ~~or under the Maine Health Program, section 3189~~, constitutes an assignment by the recipient or any legally liable relative to the department of the right to recover from 3rd parties for the medical cost of injury, disease, disability or similar occurrence for which the recipient receives medical benefits. The department's assigned right to recover is limited to the amount of medical benefits received by the recipient and does not operate as a waiver by the recipient of any other right of recovery against a 3rd party that a recipient may have.

The recipient is also deemed to have appointed the commissioner as the recipient's attorney in fact to

perform the specific act of submitting claims to insurance carriers or endorsing over to the department any and all drafts, checks, money orders or any other negotiable instruments connected with the payment of 3rd-party medical claims.

Sec. 96. 22 MRSA §14, sub-§§2-B and 2-C, as amended by PL 1991, c. 9, Pt. N, §3, are further amended to read:

2-B. Direct reimbursement to health care provider. When an insured is eligible under the Medicaid program administered by the Department of Human Services, pursuant to the United States Social Security Act, Title XIX, ~~or under the Maine Health Program, section 3189,~~ for the medical costs or injury, disease, disability or similar occurrence for which an insurer is liable, and the insured's claim is payable to a health care provider as provided or permitted by the terms of a health insurance policy or pursuant to an assignment of rights by an insured, the insurer shall directly reimburse the health care provider to the extent that the claim is honored.

2-C. Direct reimbursement to the Department of Human Services. When an insured is eligible under the Medicaid program administered by the Department of Human Services, pursuant to the United States Social Security Act, Title XIX, ~~or under the Maine Health Program, section 3189,~~ for the medical costs of injury, disease, disability or similar occurrence for which an insurer is liable, and the claim is not payable to a health care provider under the terms of the health insurance policy, the insurer shall directly reimburse the Department of Human Services, upon request, for any medical services paid by the department on behalf of a Medicaid ~~or Maine Health Program~~ recipient to the extent that those medical services are payable under the terms of the health insurance policy.

Sec. 97. 22 MRSA §14, sub-§§2-D and 2-E, as amended by PL 1991, c. 9, Pt. N, §4, are further amended to read:

2-D. Notification of claim. A Medicaid ~~or Maine Health Program~~ recipient, or any attorney representing a Medicaid ~~or Maine Health Program~~ recipient, who makes a claim to recover the medical cost of injury, disease, disability or similar occurrence for which the party received medical benefits under the Medicaid program, pursuant to the United States Social Security Act, Title XIX, ~~or the Maine Health Program, section 3189,~~ shall advise the department in writing with information as required by the department of the existence of the claim.

2-E. Notification of pleading. In any action to recover the medical cost of injury, disease, disability or similar occurrence for which the party received

medical benefits under the Medicaid program ~~or Maine Health Program~~, the party bringing the action shall notify the department of that action at least 10 days prior to filing the pleadings. Department records indicating medical benefits paid by the department on behalf of the recipient are prima facie evidence of the medical expenses incurred by the recipient for the related medical services.

Sec. 98. 22 MRSA §14, sub-§2-H, ¶¶A and B, as enacted by PL 1991, c. 815, §1, are amended to read:

A. Whenever a participating health care provider or the department submits claims to an insurer, as defined in Title 24-A, section 4, or to a health maintenance organization on behalf of a Medicaid ~~or Maine Health Program~~ recipient for whom an assignment of rights has been received, or whose rights have been assigned by the operation of law, the insurer or health maintenance organization doing business in the State must respond within 60 days of receipt of a claim by forwarding payment or issuing a notice of denial directly to the submitter of the claim.

B. Whenever a nonparticipating health care provider or the department on behalf of a nonparticipating provider submits claims to an insurer, as defined in Title 24-A, section 4, or a health maintenance organization that operates through a series of participation agreements on behalf of a Medicaid ~~or Maine Health Program~~ recipient for whom an assignment of rights has been received or whose rights have been assigned by the operation of law, the insurer or health maintenance organization doing business in the State must respond within 60 days of receipt of a claim by forwarding payment, issuing a notice of denial or issuing a copy of the explanation of benefits directly to the submitter of the claim.

Sec. 99. 22 MRSA §14, sub-§3, as amended by PL 1997, c. 795, §4, is further amended to read:

3. Definitions. For purposes of this section, "3rd party" or "liable party" or "potentially liable party" means any entity, including, but not limited to, an insurance carrier that may be liable under a contract to provide health, automobile, workers' compensation or other insurance coverage that is or may be liable to pay all or part of the medical cost of injury, disease, disability or similar occurrence of an applicant or recipient of Medicaid ~~or Maine Health Program~~ benefits. For purposes of this section and sections 18 and 19, an "insurance carrier" includes health insurers, group health plans as defined in 29 United States Code, Section 1167(1), service benefit plans and health maintenance organizations.

"Liable party," "potentially liable party" or "3rd party" also includes the trustee or trustees of any mortuary trust established by the recipient or on the recipient's behalf in which there is money remaining after the actual costs of the funeral and burial have been paid in accordance with the terms of the trust and in which there is no provision that the excess be paid to the decedent's estate. "Liable party," "potentially liable party" or "3rd party" may also include the recipient of the Medicaid or Maine Health Program benefits.

Sec. 100. 22 MRSA §3189, as amended by PL 1995, c. 696, Pt. A, §37, is repealed.

Sec. 101. 22 MRSA §3189-A, as amended by PL 1993, c. 673, §6 and affected by §10, is repealed.

Sec. 102. 24 MRSA §2853, sub-§5, as amended by PL 1991, c. 505, §3, is further amended to read:

5. Lawsuits. The pretrial screening may be bypassed if all parties agree upon a resolution of the claim by lawsuit. All parties to a claim may, by written agreement, submit a claim to the binding determination of the panel, either prior to or after the commencement of a lawsuit. Both parties may agree to bypass the panel and commence a lawsuit for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel has no jurisdiction to hear or decide, absent the agreement of the parties, dispositive legal affirmative defenses, ~~except: compliance with practice parameters or risk management protocols adopted under section 2973 if the defendant is a participant in the medical liability demonstration project established under subchapter IX and intends to introduce evidence of compliance at trial;~~ and comparative negligence. The panel chair may require the parties to litigate, by motion, dispositive legal affirmative defenses in the Superior Court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chair has chosen not to rule on may be presented, by motion, in Superior Court without the necessity of a complaint having first been filed.

Sec. 103. 24 MRSA §2855, sub-§1, ¶A-1, as enacted by PL 1991, c. 501, §5, is repealed.

Sec. 104. 24 MRSA §2971, as enacted by PL 1989, c. 931, §4 and as amended by PL 1993, c. 600, Pt. B, §21, is repealed.

Sec. 105. 24 MRSA §2972, as amended by PL 1991, c. 319, §§2 and 3 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

Sec. 106. 24 MRSA §2973, as enacted by PL 1989, c. 931, §4 and as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

Sec. 107. 24 MRSA §2974, as amended by PL 1991, c. 319, §4 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

Sec. 108. 24 MRSA §2975, as amended by PL 1995, c. 343, §1, is repealed.

Sec. 109. 24 MRSA §2976, as amended by PL 1991, c. 734, §1 and PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

Sec. 110. 24 MRSA §2977, as amended by PL 1995, c. 343, §2, is repealed.

Sec. 111. 24 MRSA §2978, as amended by PL 1995, c. 343, §§3 and 4, is repealed.

Sec. 112. 24 MRSA §2979, as enacted by PL 1993, c. 477, Pt. D, §6 and affected by Pt. F, §1, and as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is repealed.

Sec. 113. 24-A MRSA §6305, sub-§2, as amended by PL 1995, c. 570, §10, is further amended to read:

2. Final evaluation of savings. The final evaluation of the savings in professional liability insurance claims and claim settlement costs to insurers must be determined by the superintendent ~~as part of the report filed on or before December 1, 2000 under Title 24, section 2978, subsection 2.~~ Insurers shall continue to assess policyholders after 2000 based on the final determination, but the total assessment may not be more than \$500,000 per year.

Sec. 114. 25 MRSA §2901, as amended by PL 1997, c. 657, §2, is further amended to read:

§2901. Department; commissioner

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Bureau of Liquor Enforcement, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, ~~the Maine Highway Safety Commission~~, the Bureau of Highway Safety and the Maine Drug Enforcement Agency.

Sec. 115. 25 MRSA §2902, sub-§4, as repealed and replaced by PL 1993, c. 349, §55, is repealed.

Sec. 116. 29-A MRSA §1354, sub-§6, ¶A, as amended by PL 1995, c. 605, §2, is further amended to read:

A. The Secretary of State shall establish the Technical Review Panel that includes representatives from the Department of Education, the Department of Public Safety, the American Automobile Association, ~~the Maine Highway Safety Commission~~, law enforcement agencies, the insurance industry, the motor carrier industry and a driver education teacher and instructor. The Technical Review Panel shall assist the Secretary of State in developing curriculum and teacher and instructor training and certification.

Sec. 117. 30-A MRSA §5953-D, sub-§6, as enacted by PL 1993, c. 721, Pt. D, §3 and affected by Pt. H, §1, is repealed.

Sec. 118. 30-A MRSA §5959, sub-§1, ¶A, as corrected by RR 1993, c. 2, §29, is amended to read:

A. Implement sections 5953-A, 5953-B, ~~5953-D~~, 6006-A, 6006-B and 6006-D to ensure the self-sustaining nature of the funds created under sections 6006-A and 6006-B and that portion of the fund under section 6006-D determined to be self-sustaining; and

Sec. 119. 32 MRSA §2261, as amended by PL 1989, c. 443, §§86 and 87, is repealed.

Sec. 120. 32 MRSA §2265, as amended by PL 1997, c. 245, §19, is repealed.

Sec. 121. 34-A MRSA §1211, as amended by PL 1989, c. 654, §§5 to 9 and 13, is repealed.

Sec. 122. 34-B MRSA §1209-A, as amended by PL 1989, c. 503, Pt. B, §161, is repealed.

Sec. 123. 34-B MRSA §1803, first ¶, as amended by PL 1995, c. 560, Pt. K, §29, is further amended to read:

~~With the assistance and advice of the councils established in sections 1804 and 1805, the~~ The commissioner shall coordinate the development and implementation of consistent family support policies and services. The commissioner shall assign at least one person from each region to carry out the duties of this subchapter. The duties include but are not limited to the following.

Sec. 124. 34-B MRSA §§1804 and 1805, as enacted by PL 1991, c. 316, §2, are repealed.

Sec. 125. 34-B MRSA §3624, as amended by PL 1995, c. 560, Pt. K, §36, is repealed.

Sec. 126. 34-B MRSA §6241, as amended by PL 1995, c. 560, Pt. K, §§73 and 74, is repealed.

Sec. 127. 38 MRSA §§1380 and 1381, as enacted by PL 1987, c. 799, §2, are repealed.

Sec. 128. 38 MRSA §1382, as amended by PL 1995, c. 465, Pt. A, §25 and affected by Pt. C, §2, is repealed.

Sec. 129. 38 MRSA §§1383 to 1390, as enacted by PL 1987, c. 799, §2, are repealed.

See title page for effective date.

CHAPTER 669

S.P. 424 - L.D. 1261

An Act to Require the Training of School Personnel Who Administer Medications

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §254, sub-§5, as enacted by PL 1983, c. 693, §§5 and 8, is repealed and the following enacted in its place:

5. Medication. The commissioner shall provide for the administration of medication within schools as follows.

A. The commissioner shall adopt or amend rules for the administration of medication in public or approved private schools, including the training of unlicensed personnel to administer medication. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

B. Any public or approved private school shall have a written local policy and procedure for administering medication. The written local policy must include the requirement that all unlicensed personnel who administer medication receive training before receiving authorization to