

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

to ensure fair payment to providers, including inflation factors and adjustments for regional variations in labor costs; and

3. An analysis of reimbursement for nursing facilities, including reimbursement for the direct care component, the routine cost component and the fixed cost component, including inflation factors and limitations on expenditures imposed by category of cost or comparison with other facilities.

PART E

Sec. E-1. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 1708, subsection 3 and enact Title 22, section 7902-A, subsection 2-A take effect July 1, 2003.

PART F

Sec. F-1. Transfer of funds. Notwithstanding any provision of law, the State Controller shall transfer \$66,142 from the Nursing Facilities Other Special Revenue program within the Department of Human Services to the General Fund unappropriated surplus no later than June 30, 2003.

Sec. F-2. Appropriations and allocations. The following appropriations and allocations are made.

**HUMAN SERVICES, DEPARTMENT OF
Nursing Facilities 0148**

Initiative: Provides funding to decrease the threshold at which the department makes occupancy adjustments to nursing facility reimbursement rates for services provided beginning January 1, 2003 to 85% for facilities with more than 60 beds and to 80% for facilities of 60 beds or fewer.

General Fund	2001-02	2002-03
All Other	\$0	\$66,142
Total	\$0	\$66,142
Federal Expenditures Fund	2001-02	2002-03
All Other	\$0	\$130,483
Total	\$0	\$130,483

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

Effective April 11, 2002, unless otherwise indicated.

CHAPTER 667

H.P. 1577 - L.D. 2083

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. 4 MRSA §157, sub-§1, ¶A, as amended by PL 1999, c. 547, Pt. A, §2 and Pt. B, §7 and affected by §80, is repealed and the following enacted in its place:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court 33 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, except that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of

the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

Sec. A-2. 5 MRSA §142, first and 2nd ¶¶, as amended by PL 1973, c. 585, §11, are further amended to read:

The Treasurer of State, with the approval of the Governor and the ~~Bank~~ Superintendent of Financial Institutions, shall from time to time as funds appropriated for any sinking fund established by law are received into the treasury, invest the same, with the income thereof as it accrues, in any bonds of Maine, of any other New England state or in the bonds of the United States. ~~As such~~ When the bonds fall due and are paid, the proceeds thereof shall from the bonds must be reinvested in like manner.

The Treasurer of State, with the approval of the Governor and the ~~Bank~~ Superintendent of Financial Institutions, ~~shall have~~ has the power to enter into a contract or agreement with any national bank, trust company or safe deposit company located in New England or New York City for custodial care and the servicing of the negotiable securities belonging to any sinking fund of the State. ~~Such~~ The services ~~shall~~ consist of the safekeeping of ~~said~~ the negotiable securities in the vaults of the bank or safe deposit company, preparation of coupons for collection, the actual collection of ~~such~~ the coupons, periodical checks of the portfolio deposited for safekeeping to determine all calls for redemption, in whole or in part, of any bonds owned by ~~such~~ the funds, and any other fiscal service ~~which that~~ is normally covered in a custodial contract or agreement.

Sec. A-3. 5 MRSA §1975, as enacted by PL 2001, c. 388, §14, is amended to read:

§1975. Noncompliance

The purchase of data processing equipment, software or services or internal systems development efforts may not be made except in accordance with this ~~subchapter~~ chapter. An agency may not purchase any data processing equipment, software or services without the prior written approval of the commissioner or the Chief Information Officer. The State Controller may not authorize payment for data processing equipment, software or services without evidence of prior approval of the purchases by the commissioner or the Chief Information Officer.

1. Noncompliance defined. A state agency is in noncompliance with this chapter if the agency:

A. Purchases data processing equipment, software or services in noncompliance with this chapter; or

B. Fails to adhere to the data processing standards established by the commissioner, the Chief Information Officer and the board.

2. Penalty. Any state agency found to be in noncompliance as defined in this section is prohibited from acquiring or purchasing data processing equipment, software and services until the commissioner or the Chief Information Officer determines that the state agency is in compliance with this ~~subchapter~~ chapter.

Notwithstanding the provisions of this section, the commissioner or the Chief Information Officer may act to acquire or purchase data processing equipment, software and services to maintain or meet the emergency needs of a state agency.

Sec. A-4. 5 MRSA §17857, sub-§3-A, ¶B, as amended by PL 1999, c. 731, Pt. CC, §12, is further amended to read:

B. If the member was a retiree restored to service subject to subsection 2, former paragraph B:

(1) If applicable, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced in accordance with section 17852, subsection 10, paragraph C-1 or, if the member was covered under section 17851-A, the portion of the retirement benefit based upon creditable service earned before the member's initial retirement must be reduced as provided in that section; and

(2) The portion of the retirement benefit based upon creditable service earned after being restored to service must be reduced in accordance with section 17852, subsection 3-A.

Sec. A-5. 9-B MRSA §161, sub-§1, as amended by PL 2001, c. 44, §6 and affected by §14 and repealed by c. 262, Pt. B, §1, is repealed.

Sec. A-6. 10 MRSA §1344, sub-§4, as enacted by PL 1991, c. 296, is amended to read:

4. Jurisdiction. A principal who is not a resident of this State that contracts with a sales representative to solicit orders in this State is declared to be transacting business in this State for purposes of the exercise of personal jurisdiction over nonresidents under ~~chapter~~ Title 14, section 704-A.

Sec. A-7. 12 MRSA §6748, sub-§5, as enacted by PL 2001, c. 421, Pt. B, §46 and affected by Pt. C, §1, is reallocated to 12 MRSA §6748, sub-§6.

Sec. A-8. 12 MRSA §6748-A, sub-§1, as repealed and replaced by PL 2001, c. 327, §5 and affected by §21 and amended by c. 421, Pt. B, §47 and affected by Pt. C, §1, is repealed and the following enacted in its place:

1. License required. A person may not engage in the activities authorized under this section without a current sea urchin dragging license.

Sec. A-9. 12 MRSA §7077, sub-§1-A, ¶G, as repealed by PL 2001, c. 269, §1 and c. 331, §1 and amended by c. 421, Pt. B, §68 and affected by Pt. C, §1, is repealed.

Sec. A-10. 12 MRSA §7901, sub-§1, as amended by PL 2001, c. 387, §44 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-11. 12 MRSA §7901, sub-§2-A, as amended by PL 2001, c. 387, §45 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-12. 12 MRSA §7901, sub-§18, as amended by PL 2001, c. 387, §46 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-13. 12 MRSA §7901, sub-§20, ¶C-1, as enacted by PL 2001, c. 387, §47 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-14. 12 MRSA §7901, sub-§20, ¶D-1 to D-4, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §1, are repealed.

Sec. A-15. 12 MRSA §7901, sub-§20, ¶E-1 and E-2, as enacted by PL 2001, c. 387, §48 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, are repealed.

Sec. A-16. 12 MRSA §7901, sub-§20, ¶F-1 and F-2, as enacted by PL 2001, c. 387, §49 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, are repealed.

Sec. A-17. 12 MRSA §7901, sub-§20, ¶H-1 and H-2, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §2, are repealed.

Sec. A-18. 12 MRSA §7901, sub-§20, ¶P, as amended by PL 2001, c. 387, §50 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-19. 12 MRSA §7901, sub-§20, ¶Q, as amended by PL 2001, c. 387, §50 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-20. 12 MRSA §7901, sub-§20, ¶Q-1, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §3, is repealed.

Sec. A-21. 12 MRSA §7901, sub-§20, ¶R and S, as enacted by PL 2001, c. 387, §51 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, are repealed.

Sec. A-22. 12 MRSA §7901, sub-§20, ¶T and U, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and amended by c. 471, Pt. G, §4, are repealed.

Sec. A-23. 12 MRSA §7901, sub-§20, ¶V, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §5, is repealed.

Sec. A-24. 12 MRSA §7901, sub-§21, ¶Q and R, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and amended by c. 471, Pt. G, §6, are repealed.

Sec. A-25. 12 MRSA §7901, sub-§21, ¶S to U, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §7, are repealed.

Sec. A-26. 12 MRSA §7901, sub-§22, ¶L, as amended by PL 2001, c. 387, §52 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-27. 12 MRSA §7901, sub-§22, ¶L-1, as repealed by PL 2001, c. 421, Pt. B, §87 and affected by Pt. C, §1 and enacted by c. 471, Pt. G, §8, is repealed.

Sec. A-28. 12 MRSA §7901, sub-§22, ¶M, as amended by PL 2001, c. 387, §52 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, is repealed.

Sec. A-29. 12 MRSA §7901, sub-§22, ¶N and O, as enacted by PL 2001, c. 387, §53 and repealed by c. 421, Pt. B, §87 and affected by Pt. C, §1, are repealed.

Sec. A-30. 12 MRSA §7901-A, sub-§12, ¶A, as amended by PL 2001, c. 471, Pt. G, §§9 and 10 and affected by §13, is further amended by amending subparagraph (34) to read:

(34) Unlawfully renting or leasing a personal watercraft as described in section 7801, subsection ~~37~~ 40;

Sec. A-31. 15 MRSA §1102, as amended by PL 1995, c. 65, Pt. A, §44 and affected by §153 and Pt. C, §15, is further amended to read:

§1102. Detention of juveniles charged as adults

Unless they have attained their 18th birthday, persons who are arrested for crimes defined under Title 12 or Title 29-A, that are not juvenile crimes as defined in section 3103, may not be detained unless a juvenile ~~caseworker~~ community corrections officer has been notified within 2 hours after the person's arrest and has approved the detention. Section 3203-A, subsection 7, paragraphs A and B, governing the facilities in which juveniles may be detained, apply to any detention of such juveniles following arrest.

Sec. A-32. 15 MRSA §3502, sub-§1, ¶A, as amended by PL 1985, c. 439, §19, is further amended to read:

A. The Department of Corrections shall provide for a placement referral service, staffed by juvenile ~~caseworkers~~ community corrections officers for 24 hours a day. This referral service shall make emergency detention or conditional release decisions pursuant to chapter 505 for all juveniles referred to the department by law enforcement officers.

Sec. A-33. 17 MRSA §2263, first ¶, as enacted by PL 1975, c. 739, §3, is amended to read:

As used in this ~~section~~ chapter, unless the context otherwise indicates, the following ~~words shall~~ terms have the following meanings:

Sec. A-34. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 2001, c. 439, Pt. OOO, §1, is further amended by amending subparagraph (9) to read:

(9) A violation of a condition of probation when requested by a probation officer or juvenile ~~caseworker~~ community corrections officer;

Sec. A-35. 17-A MRSA §1108, sub-§1, as amended by PL 2001, c. 383, §128 and affected by §156 and amended by c. 419, §19, is repealed and the following enacted in its place:

1. A person is guilty of acquiring drugs by deception if, as a result of deception, the person obtains or exercises control over a prescription for a scheduled drug or what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime;

B. A schedule X drug. Violation of this paragraph is a Class C crime;

C. A schedule Y drug. Violation of this paragraph is a Class C crime; or

D. A schedule Z drug. Violation of this paragraph is a Class D crime.

Sec. A-36. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 17-A, section 1108, subsection 1 takes effect January 31, 2003.

Sec. A-37. 17-A MRSA §1158, as amended by PL 2001, c. 348, §3 and repealed and replaced by c. 383, §149 and affected by §156, is repealed and the following enacted in its place:

§1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, a firearm must be forfeited to the State if that firearm:

1. Constitutes the basis for conviction under:

A. Title 15, section 393;

B. Section 1105-A, subsection 1, paragraph C;

C. Section 1105-B, subsection 1, paragraph C;

D. Section 1105-C, subsection 1, paragraph C; or

E. Section 1105-D, subsection 1, paragraph B; or

2. Is used by the defendant or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13.

The court shall order the forfeiture of the firearm unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that another person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375 governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertainable. For purposes of this section, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand.

Sec. A-38. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 17-A, section 1158 takes effect January 31, 2003.

Sec. A-39. 17-A MRSA §1252, sub-§4-A, as amended by PL 2001, c. 383, §150 and affected by §156 and amended by c. 439, Pt. OOO, §4, is repealed and the following enacted in its place:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27 was committed, the defendant had been convicted of 2 or more crimes violating chapter 9, 11, 13 or 27 or essentially similar crimes in other jurisdictions, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, the dates of prior convictions may have occurred at any time.

Sec. A-40. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 17-A, section 1252, subsection 4-A takes effect January 31, 2003.

Sec. A-41. 18-A MRSA §1-701, sub-§(c), as enacted by PL 2001, c. 163, §1, is amended to read:

(c) The judge shall make and preserve a record of the name change. If the judge limited the notice required under subsection ~~(2)~~ (b), the judge may seal the records of the name change.

Sec. A-42. 20-A MRSA §4706, first ¶, as amended by PL 2001, c. 403, §1 and repealed and replaced by c. 454, §19, is repealed and the following enacted in its place:

American history and Maine studies must be taught as specified in the system of learning results established in section 6209.

Sec. A-43. 21-A MRSA §1002, as amended by PL 2001, c. 430, §7 and c. 470, §4, is repealed and the following enacted in its place:

§1002. Meetings of commission

The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding

an election must be decided within 24 hours of the filing unless all parties involved agree otherwise. Meetings may be held over the telephone if necessary, as long as the commission office remains open for attendance by complainants, witnesses and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted only during the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission. The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election and from 8 a.m. until at least 8 p.m. on election day. The commission shall meet at other times on the call of the Speaker of the House, the President of the Senate, the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

Sec. A-44. 25 MRSA §1542-A, sub-§3, ¶G, as enacted by PL 1999, c. 260, Pt. B, §11 and affected by §18, is amended to read:

G. The law enforcement agency that has primary responsibility for the investigation and prosecution of the juvenile offense shall take or cause to be taken the fingerprints of the person named in subsection 1, paragraph H. If the juvenile is arrested, fingerprints must be taken prior to that person's being released from custody. If a juvenile court proceeding is commenced against a person without a juvenile arrest having been made, fingerprints must be taken within 5 days of the filing of the petition at a time and place specified by the responsible agency after consulting with the juvenile ~~caseworker~~ community corrections officer. The juvenile shall appear at the specified time and place and shall submit to the process.

Sec. A-45. 29-A MRSA §101, sub-§64-A, as enacted by PL 2001, c. 145, §2; c. 197, §3 and c. 360, §1, is repealed and the following enacted in its place:

64-A. School. "School" has the same meaning as in Title 20-A, section 6353, subsection 7.

Sec. A-46. 29-A MRSA §101, sub-§64-C is enacted to read:

64-C. Scooter. "Scooter" means a device upon which a person may ride consisting of a footboard between 2 end wheels, controlled by an upright steering handle attached to the front wheel and propelled by human power or a motor.

Sec. A-47. 30-A MRSA §82, sub-§4, as amended by PL 2001, c. 107, §1 and repealed by c. 349, §2, is repealed.

Sec. A-48. 30-A MRSA §1559, sub-§6, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106; amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

6. Administration of medication not a violation. The administration of medication to prisoners, as provided in this section, is not a violation of Title 32, section 2102, subsection 2, paragraph ~~D~~ E, or Title 32, section 3270, or any other law.

Sec. A-49. 30-A MRSA §5953-D, sub-§3, ¶D, as amended by PL 2001, c. 90, §4 and c. 406, §16, is repealed and the following enacted in its place:

D. In the case of a public service infrastructure grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a growth management program certified under section 4347-A that includes a capital improvement program composed of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Executive

Department, State Planning Office to be consistent with section 4326, subsections 1 to 4.

(3) A municipality is eligible to receive a loan if that municipality is a service center community.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of subparagraph (1) or (2) may jointly apply for assistance under this section; and

Sec. A-50. 34-A MRSA §1001, sub-§15-A, as enacted by PL 1997, c. 464, §8, is amended to read:

15-A. Regional correctional administrator. "Regional correctional administrator" means the supervisor of adult probation and parole and intensive supervision services or the supervisor of juvenile ~~eworker~~ community corrections officer services for a region.

Sec. A-51. 37 MRSA §216 is repealed.

Sec. A-52. PL 2001, c. 197, §4, amending clause is amended to read:

Sec. 4. 29-A MRSA §501, sub-§2-A, as amended by PL 1999, c. 790, Pt. C, §4 and affected by Pt. C, §19, is further amended to read:

Sec. A-53. PL 2001, c. 439, Pt. KK, §2 is amended to read:

Sec. KK-2. Application. This ~~Aet Part~~ Part applies to tax years beginning on or after January 1, 2001.

Sec. A-54. PL 2001, c. 439, Pt. OOO, §16 is amended to read:

Sec. OOO-16. Nonseverability. Notwithstanding the provisions of the Maine Revised Statutes, Title 1, section 71, if any provision of this ~~Aet Part~~ Part or its application is held invalid, it is the intent of the Legislature that the entire ~~Aet Part~~ Part is invalidated.

PART B

Sec. B-1. 5 MRSA §1742-C, sub-§2, as enacted by PL 1989, c. 483, Pt. A, §16, is amended to read:

2. Maine Technical College System; Maine Maritime Academy. The Bureau of ~~Public Improvements~~ General Services shall provide any of the services set out in section 1742, subsections 1 to 9, 12 to 14, 19 and 23 to the Maine ~~Vocational Technical Institute~~ Technical College System and the Maine Maritime Academy. Application of section 1742,

subsection 23 to these institutions is limited to all public improvements:

- A. Costing \$25,000 or more; or
- B. Costing less than \$25,000 when building codes or other legal requirements exist.

Sec. B-2. 5 MRSA §12004-G, sub-§3-C is enacted to read:

<u>3-C.</u>	<u>Integrated</u>	<u>Expenses</u>	<u>7 MRSA</u>
Agriculture	Pest Man-	Only	§2404
	agement		
	Council		

Sec. B-3. 5 MRSA §12004-G, sub-§22-A, as enacted by PL 2001, c. 497, §1, is repealed.

Sec. B-4. 7 MRSA §2404, sub-§1, as enacted by PL 2001, c. 497, §3, is amended to read:

1. Establishment; meetings. The Integrated Pest Management Council, referred to in this section as the "council," as established in Title 5, section 12004-G, subsection ~~22-A~~ 3-C, is created within the department and is administered jointly by the department and the University of Maine Cooperative Extension Pest Management Office. Members of the council must be jointly appointed by the commissioner and the Director of the University of Maine Cooperative Extension. The council must meet at least 2 times a year. Members are entitled to reimbursement for expenses only in accordance with Title 5, chapter 379.

Sec. B-5. Effective date. Those sections of this Part that enact the Maine Revised Statutes, Title 5, section 12004-G, subsection 3-C, repeal section 12004-G, subsection 22-A and amend Title 7, section 2404, subsection 1 take effect 90 days after the adjournment of the Second Regular Session of the 120th Legislature.

Sec. B-6. 12 MRSA §6671, sub-§5, as amended by PL 2001, c. 101, §1 and c. 188, §6, is repealed and the following enacted in its place:

5. Period of ordinance. Ordinances or amendments to an ordinance adopted under this section remain in effect until repealed by the municipality or rescinded by the commissioner. A certified copy of the ordinance or amendment to the ordinance must be filed with the commissioner within 20 days of its adoption. If a copy of the ordinance or an amendment to the ordinance is not filed within 20 days, the ordinance reverts to the ordinance previously in effect until the new ordinance or amendment is filed.

Sec. B-7. 12 MRSA §7827, sub-§22, ¶A, as amended by PL 2001, c. 387, §37, is further amended to read:

A. Is the operator of a snowmobile involved in a an accident resulting in injuries requiring the services of a physician or in death of a person; some person acting for such an operator; or the owner of the involved snowmobile having knowledge of the accident, should the operator of the snowmobile be unknown; and

Sec. B-8. 12 MRSA §7901-A, sub-§2-A is enacted to read:

2-A. Civil violations of chapter 707, subchapter VII. The following violations are civil violations for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged:

A. Keeping a wild animal in captivity as described in section 7235-D, subsection 1.

Sec. B-9. 12 MRSA §7901-A, sub-§6, ¶A, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

- A. Chapter 709, subchapter I violations:
- (1) Shooting at or near wildfowl decoys as described in section 7406, subsection 11;
 - (2) Hunting without hunter orange clothing as described in section 7406, subsection 12; ~~and~~
 - (3) Allowing a junior hunter to hunt without adult supervision as described in section 7406, subsection 21;
 - (4) Hunting on a state game farm as described in section 7406, subsection 22; and
 - (5) Hunting in a licensed wildlife exhibit as described in section 7406, subsection 23;

Sec. B-10. 12 MRSA §7901-A, sub-§6, ¶C, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

- C. Chapter 709, subchapter III violations:
- (1) Hunting or trapping bear near dumps as described in section 7452, subsection 5;
 - (2) Leaving a bear as described in section 7452, subsection 8;
 - (3) Failure to attach a bear tag to a bear as described in section 7452, subsection 11;
 - (4) Illegally transporting bear as described in section 7452, subsection 13;
 - (5) Transporting bear out of the State as described in section 7452, subsection 14;

- (6) Hunting migratory game birds without certification as described in section 7456, subsection 1-A;
- (7) Hunting waterfowl on Haley Pond as described in section 7456, subsection 2;
- (8) Transporting deer out of the State as described in section 7458, subsection 12;
- (9) Hunting deer with .22 caliber rim fire cartridge as described in section 7458, subsection 13;
- (10) Use of firearm in the Town of Southport as described in section 7458, subsection 14;
- ~~(11) Transporting wild hares or rabbits out of the State as described in section 7462, subsection 3;~~
- (12) Possessing or transporting wild hares or rabbits as described in section 7462, subsection 4;
- (13) Failure to attach a moose tag to a moose as described in section 7464, subsection 6;
- (14) Use of illegal firearms as described in section 7464, subsection 8-A;
- (15) Illegal hunting methods as described in section 7464, subsection 8-C;
- (16) Failure to attach a wild turkey tag to a wild turkey as described in section 7469, subsection 7;
- (17) Use of illegal weapons or ammunition as described in section 7469, subsection 11; and
- (18) Taking of snakes and turtles from the wild for commercial purposes as described in section 7471;

Sec. B-11. 21-A MRSA §606, sub-§3, as amended by PL 2001, c. 516, §7, is further amended to read:

3. Receipt issued; inspection of ballots in an election. Upon receipt of a package or box containing absentee ballots or blank absentee ballots for an election, the clerk shall open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if the correct number of ballots has not been received and shall also immediately send the Secretary of State a

receipt for the absentee ballots received noting any discrepancies on the receipt. The clerk shall then proceed to issue absentee ballots or blank absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk shall open, in the presence of one or more witnesses, the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk shall immediately notify the Secretary of State if a ballot is incorrect or if the correct number of ballots has not been received. Ballots to be used for testing electronic tabulating devices may be removed at this time and immediately marked as provided by ~~section~~ subsection 3-A. The clerk shall complete the clerk's portion of the warden's receipt of ballots and shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day when it is delivered to the warden at the polling place.

Sec. B-12. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 21-A, section 606, subsection 3 takes effect 90 days after the adjournment of the Second Regular Session of the 120th Legislature.

Sec. B-13. PL 2001, c. 526, §6 is amended to read:

Sec. 6. Application. ~~That section of this Act that amends the Maine Revised Statutes, Title 36, section 141, subsection 2, paragraph A applies to assessments made on or after the effective date of this Act.~~ That section of this Act that amends the Maine Revised Statutes, Title 36, section 5219-R applies to tax years beginning on or after January 1, 2001.

Sec. B-14. Effective date. That section of this Part that amends Public Law 2001, chapter 526, section 6 takes effect 90 days after adjournment of the Second Regular Session of the 120th Legislature.

PART C

Sec. C-1. 5 MRSA §5, as amended by PL 1987, c. 736, §4, is further amended to read:

§5. Oath of office; before whom taken

The Justices of the Supreme Judicial Court and of the Superior Court, ~~the Judges of the District Court~~ and all state officials elected by the Legislature shall take and subscribe the oath or affirmation required by the Constitution, before the Governor. Every other person elected or appointed to any civil office shall take and subscribe the oath before any dedimus justice commissioned by the Governor for that purpose, except when the Constitution otherwise provides.

Sec. C-2. 5 MRSA §12004-B, sub-§9, as enacted by PL 2001, c. 439, Pt. T, §3, is repealed.

Sec. C-3. 5 MRSA §22004, sub-§1, as enacted by PL 2001, c. 439, Pt. T, §5, is amended to read:

1. Appointment. The authority shall appoint 3 persons to serve as the compensation panel ~~established in section 12004-B, subsection 9.~~ The compensation panel shall make decisions about the eligibility of claimants and the appropriate compensation payments to be made.

Sec. C-4. 5 MRSA §22024, sub-§§3 and 4, as enacted by PL 2001, c. 439, Pt. T, §5, are amended to read:

3. Decision. The compensation panel shall complete its decision within ~~60 days~~ 9 months of the filing of the complete claim with the compensation panel.

4. Communication of the decision. The compensation panel shall provide to the claimant, and any claims consultant who assisted the claimant ~~or, if no claims consultant assisted the claimant, to a claims consultant~~ a written statement of the decision, including separate findings on each of the determinations. The claimant may consult with a claims consultant who shall provide the statement and explain its content and meaning of the decision to the claimant. The claims consultant shall also explain the options available to the claimant if the claimant is not satisfied with the compensation panel's decision.

Sec. C-5. 5 MRSA §22027, as enacted by PL 2001, c. 439, Pt. T, §5, is amended to read:

§22027. Payment

The program shall pay compensation within 30 days of the final compensation decision and receipt of a release from the claimant as provided in section 22026, subsection 2, or as soon thereafter as possible.

Sec. C-6. 12 MRSA §7171, sub-§4, ¶C, as amended by PL 1997, c. 432, §§25 and 26, is further amended by amending subparagraph (11) to read:

(11) A person holding a smelt wholesaler's license must, at the time that person is engaged during the winter months in the taking of smelts, by any method other than hook and line, have a number 14 fish grader in operable condition in that person's immediate proximity during the taking of smelts and must use that grader during the smelt harvesting activity. The license holder must liberate immediately all undersized smelts alive into the waters from

which they were taken. For the purpose of this subparagraph, a number 14 grader is a grader having a ~~maximum~~ minimum grate size of 14/64 inches.

Sec. C-7. 12 MRSA §7572, sub-§3, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. C-8. 12 MRSA §7901-A, sub-§9, ¶N, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, is amended to read:

N. Violation of an ice fishing restriction as described in section 7629 ~~that is based on an open water restriction that is a civil violation.~~

Sec. C-9. 12 MRSA §7901-A, sub-§18, ¶¶M and N, as enacted by PL 2001, c. 421, Pt. B, §88 and affected by Pt. C, §1, are amended to read:

M. A violation of a rule regulating camp trip leader permits and course instructor certificates; ~~and~~

N. A violation of a rule regulating licensed guides; ~~and~~

Sec. C-10. 12 MRSA §7901-A, sub-§18, ¶O is enacted to read:

O. A violation of a rule regulating wild animals in captivity.

Sec. C-11. 20-A MRSA §5401, sub-§15, ¶C, as amended by PL 2001, c. 344, §6, is further amended to read:

C. A school board may obtain a short-term loan or enter into a lease-purchase agreement to acquire school buses if ~~it is approved~~ the loan is approved by the unit's legislative body or if funds that can be used for the initial lease-purchase payment have been appropriated by the unit's legislative body. The term of a loan or a lease-purchase agreement may not exceed 5 years. The commissioner shall establish a maximum amount for annual-term purchases in excess of the amount established in paragraph A. Beginning in fiscal year 2003-04, these expenditures must be subsidized in accordance with section 15603, subsection 26-A.

Sec. C-12. 22 MRSA §259, sub-§1, as enacted by PL 2001, c. 450, Pt. B, §1, is amended to read:

1. Support for federally qualified health centers. The department shall provide support for federally qualified health centers as follows:

A. Seventy-five thousand dollars in fiscal years 2001-02 and 2002-03 as the state Medicaid

match to contract for Medicaid outstationing services at federally qualified health centers; and

B. Six hundred ninety-nine thousand, one hundred fifty dollars in fiscal year 2001-02 to federally qualified health ~~center grantees~~ centers to support the infrastructure of these programs in providing primary care services to underserved populations. Forty-four thousand, two hundred fifty dollars must be provided to each ~~grantee~~ federally qualified health center with an additional \$8,850 for the 2nd and each additional site operated by a ~~grantee~~ federally qualified health center. For the purposes of this paragraph, "site" means a site or sites operated by the ~~grantee~~ federally qualified health center within its scope of service that meet all health center requirements, including providing primary care services, regardless of patients' ability to pay, 5 days a week with extended hours. If there is not sufficient funding to meet the formula in this paragraph, the \$699,150 must be allocated in proportion to the formula outlined in this paragraph.

Sec. C-13. 22 MRSA §3789-D, sub-§2, ¶F, as enacted by PL 1997, c. 530, Pt. A, §30, is amended to read:

F. One representative of the ~~Job Training Partnership Act service delivery area network one-stop delivery system established under the federal Workforce Investment Act of 1998, 29 United States Code, Section 2841;~~ and

Sec. C-14. 25 MRSA §1611, sub-§5, as enacted by PL 2001, c. 439, Pt. CCCC, §4, is amended to read:

5. Law enforcement officer or officer. "Law enforcement officer" or "officer" means an active state police officer, municipal police officer, county sheriff, deputy sheriff, game warden, an employee of the Office of the State Fire Marshal who has law enforcement powers pursuant to section 2396, subsection 7, fire marshal, liquor enforcement officer or marine patrol officer in this State.

Sec. C-15. 25 MRSA §2916, sub-§4, as enacted by PL 2001, c. 309, §1, is amended to read:

4. Gravesite flag holder and flag. The gravesite flag holder must include ~~the~~ a State of Maine ~~seal~~ symbol and the words "Law Enforcement Officer Killed in the Line of Duty" and a Maine flag. The state flag must be 12 inches by ~~8~~ 18 inches in size.

Sec. C-16. 25 MRSA §2933, sub-§4, as enacted by PL 2001, c. 53, §2, is amended to read:

4. Penalties. On petition by the bureau, the Public Utilities Commission, in an adjudicatory

proceeding, may impose the following penalties for a violation by a local exchange carrier of subsection 1 or 2 ~~or 3~~ or any rules adopted by the bureau implementing subsection 1 or 2 ~~or 3~~:

A. An administrative penalty of up to \$1,000 for each day of the violation; and

B. In extraordinary cases, as determined by the Public Utilities Commission, revocation of the commission's authorization of the local exchange carrier's authority to provide local exchange service in this State.

Penalties collected by the commission under this subsection must be deposited in the Public Utilities Commission Reimbursement Fund under Title 35-A, section 117.

Sec. C-17. 29-A MRSA §2063, as amended by PL 2001, c. 148, §3; c. 197, §6; and c. 360, §9, is repealed and the following enacted in its place:

§2063. Bicycles, toy vehicles and scooters

1. Definitions. For the purpose of this section, "bicycle" includes a motorized bicycle or a motorized tricycle, "scooter" includes a motorized scooter and "toy vehicle" includes, but is not limited to, skateboards, rollerskates, wagons, sleds and coasters.

2. Riding to the right. A person operating a bicycle or scooter shall ride it as far as practicable to the right side of the way, except when making a left turn. This subsection does not apply in a municipality that, by ordinance and with the approval of the Department of Public Safety and the Department of Transportation, makes other provisions for the location of bicycle or scooter traffic.

2-A. Bicycle riding on shoulder. Notwithstanding subsection 2, a person operating a bicycle may travel on paved shoulders.

3. Seating. A person operating a bicycle may not ride other than astride a regular and permanently attached seat. A bicycle may not be used to carry more persons than the number for which it is designed and equipped.

4. Hitching rides. A person riding on a bicycle, scooter or toy vehicle may not attach it to a moving vehicle on a way.

5. Rights and duties. A person riding a bicycle or scooter on a way has the rights and is subject to the duties applicable to the operator of a vehicle, except as to:

A. Special regulations; and

B. Provisions in this Title that by their nature can have no application.

6. Speed. A motorized bicycle or motorized scooter may not be operated in excess of 20 miles per hour.

7. Penalties. A person 17 years of age or over who violates this section commits a traffic infraction for which a forfeiture of no more than \$10 may be adjudged.

8. Impoundment. The chief of police of a municipality, or if there is no chief of police, the chair of the local legislative body, when satisfied that a juvenile under the age of 17 years has ridden a bicycle or scooter in violation of this section, may impound the bicycle or scooter for a period not to exceed 5 days for the first offense, 10 days for a 2nd offense and 30 days for a subsequent offense.

Sec. C-18. 33 MRSA §652, sub-§2, as enacted by PL 1991, c. 497, §1, is amended to read:

2. Seals. Be embossed, sealed or both, with the seal of an architect, professional engineer or registered land surveyor;

Sec. C-19. 34-A MRSA §1205, sub-§3, as amended by PL 2001, c. 228, §1 and c. 386, §9, is repealed.

Sec. C-20. PL 2001, c. 314, §4 is repealed.

Sec. C-21. PL 2001, c. 314, emergency clause is amended to read:

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect ~~when approved~~ July 1, 2001.

Sec. C-22. Retroactivity. Those sections of this Part that repeal or amend any portion of Public Law 2001, chapter 314 apply retroactively to May 30, 2001.

Sec. C-23. PL 2001, c. 450, Pt. B, §§3 and 4 are amended to read:

Sec. B-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$75,000	\$75,000
Provides funds to contract for Medicaid outstationing		

services at federally qualified health centers ~~and federally qualified look-alikes.~~

Bureau of Health

All Other \$699,150

Provides funds to support the primary care infrastructure of federally qualified health centers providing health care services to underserved populations.

Affordable Health Care Fund

All Other \$50,000

Provides funds to establish the Affordable Health Care Fund to provide subsidies for individuals enrolled in community health access programs.

**DEPARTMENT OF HUMAN SERVICES
TOTAL**

\$824,150 \$75,000

Sec. B-4. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$75,000	\$75,000
Provides funds for the federal match to contract for Medicaid outstationing services at federally qualified health centers and federally qualified look-alikes.		

PART D

Sec. D-1. 17-A MRSA §152, sub-§4, as repealed by PL 2001, c. 383, §6 and affected by §156 and repealed and replaced by c. 413, §1, is repealed.

Sec. D-2. 17-A MRSA §152, sub-§5, as enacted by PL 2001, c. 383, §6 and affected by §156, is repealed.

Sec. D-3. 17-A MRSA §353, sub-§1, ¶B, as enacted by PL 2001, c. 383, §33 and affected by §156, is amended to read:

B. The person violates paragraph A and:

(1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-4. 17-A MRSA §354, sub-§1, ¶B, as enacted by PL 2001, c. 383, §34 and affected by §156, is amended to read:

B. The person violates paragraph A and:

(1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-5. 17-A MRSA §354-A, sub-§1, ¶B, as enacted by PL 2001, c. 383, §35 and affected by §156, is amended to read:

B. The person violates paragraph A and:

(1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-6. 17-A MRSA §356-A, sub-§1, ¶B, as enacted by PL 2001, c. 383, §41 and affected by §156, is amended to read:

B. The person violates paragraph A and:

- (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;
- (3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (4) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (5) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or
- (6) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-7. 17-A MRSA §357, sub-§1, ¶B, as enacted by PL 2001, c. 383, §42 and affected by §156, is amended to read:

B. The person violates paragraph A and:

- (1) The value of the services is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (3) The value of the services is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the services is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-8. 17-A MRSA §357, sub-§2, ¶B, as enacted by PL 2001, c. 383, §42 and affected by §156, is amended to read:

B. The person violates paragraph A and:

- (1) The value of the services is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) That person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (3) The value of the services is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (4) The value of the services is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-9. 17-A MRSA §358, sub-§1, ¶B, as enacted by PL 2001, c. 383, §43 and affected by §156, is amended to read:

B. The person violates paragraph A and:

- (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;
- (3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (4) The value of the property is more than \$2,000 and the person is a payroll processor. Violation of this paragraph is a Class B crime;
- (5) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (6) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime;
- (7) The value of the property is more than \$1,000 but not more than \$2,000 and the person is a payroll processor. Violation of this subparagraph is a Class C crime;
- (8) The person is a payroll processor and has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class B crime; or
- (9) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sen-

tence. Violation of this subparagraph is a Class C crime.

Sec. D-10. 17-A MRSA §359, sub-§1, ¶B, as enacted by PL 2001, c. 383, §46 and affected by §156, is amended to read:

B. The person violates paragraph A and:

- (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;
- (3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (4) The value of the property is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (5) The value of the property is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or
- (6) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-11. 17-A MRSA §360, sub-§1, ¶B, as amended by PL 2001, c. 383, §47 and affected by §156, is further amended to read:

- B. Having custody of a vehicle pursuant to an agreement between the person and the owner of the vehicle whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, the person intentionally uses or operates the ~~same~~ vehicle, without the consent of the owner, for the person's own purposes in a manner constituting a gross deviation from the agreed purpose; or

Sec. D-12. 17-A MRSA §361-A, sub-§1, as enacted by 2001, c. 383, §51 and affected by §156, is amended to read:

1. Proof that the defendant was in exclusive possession of property that had recently been taken under circumstances constituting a violation of this chapter, section 405 or of chapter 27 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant is guilty of the theft or robbery of the property, as the case may be, and proof that the theft or robbery occurred under circumstances constituting a violation of section 401 or 405 also gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant in exclusive possession of property recently so taken is guilty of the burglary or burglary of a motor vehicle, as the case may be.

Sec. D-13. 17-A MRSA §703, sub-§1, ¶¶A-1 and B-1, as enacted by PL 2001, c. 383, §75 and affected by §156, are amended to read:

A-1. The person violates paragraph A and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime; or

(3) At the time of the forgery, the person has 2 prior convictions for any combination of the following: theft; violation or attempted violation of this section; any violation or attempted violation of section 401 if the intended crime within the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation or attempted violation of section 651; or any violation or attempted violation of section 702 or 708. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime;

B-1. The person violates paragraph B and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instru-

ments is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime; or

(3) At the time of the forgery, the person has 2 prior convictions for any combination of the following: theft; violation or attempted violation of this section; any violation or attempted violation of section 401 if the intended crime within the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation or attempted violation of section 651; or any violation or attempted violation of section 702 or 708. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. D-14. 17-A MRSA §703, sub-§2, as repealed by PL 2001, c. 383, §76 and affected by §156 and amended by c. 389, §6, is repealed.

Sec. D-15. 17-A MRSA §708, sub-§1, ¶B, as enacted by PL 2001, c. 383, §77 and affected by §156, is amended to read:

B. The person violates paragraph A and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than ~~\$2,000~~ \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(3) The face value of the negotiable instrument is more than ~~\$1,000~~ \$500 but not more than ~~\$2,000~~ \$1,000. Violation of this subparagraph is a Class D crime; or

(4) At the time of negotiating a worthless instrument, the person has 2 prior convictions for any combination of the following: theft; violation or attempted violation of this section; any violation or attempted violation of section 401 if the intended crime within the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation or attempted violation of section 651; or any violation or attempted violation of section 702 or 708. Section 9-A governs the use of prior convictions when determining a sentence.

Violation of this subparagraph is a Class C crime.

Sec. D-16. 17-A MRS §753, sub-§1-A, as enacted by PL 2001, c. 383, §85 and affected by §156, is repealed.

Sec. D-17. 17-A MRS §753, sub-§1-B is enacted to read:

1-B. A person is guilty of hindering apprehension or prosecution if, with the intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another person for the commission of a crime, the person:

A. Harbors or conceals the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime;

B. Provides or aids in providing a dangerous weapon, transportation, disguise or other means of avoiding discovery or apprehension and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime;

C. Conceals, alters or destroys any physical evidence that might aid in the discovery, apprehension or conviction of the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime;

D. Warns the other person of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another person into compliance with the law, and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime;

E. Obstructs by force, intimidation or deception anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; or

F. Aids the other person to safeguard the proceeds of or to profit from such crime and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Viola-

tion of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime.

Sec. D-18. 17-A MRSA §753, sub-§2-A, as amended by PL 2001, c. 383, §87 and affected by §156, is further amended to read:

2-A. Hindering apprehension or prosecution when the other person has committed a crime against another jurisdiction is graded as in subsection + **1-B**. For purposes of this subsection, the classification of the crime of the other jurisdiction is determined according to the formula contained in section 4-A, subsection 3 as if it were a crime of this jurisdiction outside this Code.

Sec. D-19. 17-A MRSA §753, sub-§3, as amended by PL 2001, c. 383, §88 and affected by §156, is further amended to read:

3. As used in subsection + **1-B**, "crime" includes juvenile offenses. The sentencing class for hindering the apprehension or prosecution of a juvenile is determined in the same manner as if the juvenile were a person 18 years of age or older, provided that if the offense committed by the juvenile would not have been a crime if committed by a person 18 years of age or older, hindering apprehension or prosecution is a Class E crime.

Sec. D-20. 17-A MRSA §755, sub-§1-D, as enacted by PL 2001, c. 383, §94 and affected by §156, is repealed and the following enacted in its place:

1-D. A person is guilty of escape during transport if the person:

A. Escapes from arrest or escapes from custody while being transported to a jail, police station or any other facility enumerated in subsection 3 pursuant to an arrest. Violation of this paragraph is a Class D crime; or

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime.

Sec. D-21. 17-A MRSA §1105, sub-§1, as repealed by PL 2001, c. 383, §118 and affected by §156 and amended by c. 419, §§14 and 15, is repealed.

Sec. D-22. 17-A MRSA §1105-A, sub-§1, ¶C, as enacted by PL 2001, c. 383, §119 and affected by §156, is repealed.

Sec. D-23. 17-A MRSA §1105-A, sub-§1, ¶C-1 is enacted to read:

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

Sec. D-24. 17-A MRSA §1105-A, sub-§1, ¶¶G and H, as enacted by PL 2001, c. 383, §119 and affected by §156, are amended to read:

G. At the time of the offense, the person trafficks in methamphetamine in a quantity of 100 grams or more. Violation of this paragraph is a Class A crime; ~~or~~

H. At the time of the offense, the person trafficks in heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime;

Sec. D-25. 17-A MRSA §1105-A, sub-§1, ¶¶I and J are enacted to read:

I. At the time of the offense, the person trafficks in 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone; or

J. At the time of the offense, the person trafficks in a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O.

Sec. D-26. 17-A MRSA §1105-B, sub-§1, ¶C, as enacted by PL 2001, c. 383, §119 and affected by §156, is repealed and the following enacted in its place:

C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm.

Sec. D-27. 17-A MRSA §1105-C, sub-§1, ¶C, as enacted by PL 2001, c. 383, §119 and affected by §156, is repealed.

Sec. D-28. 17-A MRSA §1105-C, sub-§1, ¶C-1 is enacted to read:

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime;

Sec. D-29. 17-A MRSA §1105-D, sub-§1, ¶B, as enacted by PL 2001, c. 383, §119 and affected by §156, is repealed.

Sec. D-30. 17-A MRSA §1105-D, sub-§1, ¶B-1 is enacted to read:

B-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime;

Sec. D-31. 17-A MRSA §1105-C, sub-§1, ¶¶G and H, as enacted by PL 2001, c. 383, §119 and affected by §156, are amended to read:

G. At the time of the offense, the person furnishes methamphetamine in a quantity of 100 grams or more. Violation of this paragraph is a Class B crime; ~~or~~

H. At the time of the offense, the person furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class B crime; ~~;~~

Sec. D-32. 17-A MRSA §1105-C, sub-§1, ¶¶I and J are enacted to read:

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone; or

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O.

Sec. D-33. 17-A MRSA §1109, sub-§1, as repealed and replaced by PL 2001, c. 383, §130 and affected by §156, is repealed and the following enacted in its place:

1. A person is guilty of stealing drugs if the person violates chapter 15, sections 353, 355 or 356 knowing or believing that the subject of the theft is a scheduled drug, and it is in fact a scheduled drug, and the theft is from a person authorized to possess or traffick in that scheduled drug.

Sec. D-34. 17-A MRSA §1112, sub-§1, as amended by PL 2001, c. 383, §142 and affected by §156 and amended by c. 419, §22, is repealed and the following enacted in its place:

1. A laboratory that receives a drug or substance from a law enforcement officer or agency for analysis as a scheduled drug shall, if it is capable of so doing, analyze the same as requested by a method designed to accurately determine the composition of the substance, including by chemical means, visual examination, or both, and shall issue a certificate stating the results of the analysis. The certificate, when duly signed and sworn to by a person certified as qualified for this

purpose by the Department of Human Services under certification standards set by that department, is admissible in evidence in a court of the State, and gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the composition, quality and quantity of the drug or substance are as stated in the certificate, unless, within 10 days written notice to the prosecution, the defendant requests that a qualified witness testify as to the composition, quality and quantity.

Sec. D-35. PL 2001, c. 471, Pt. B, §10 is amended to read:

Sec. B-10. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 17-A, section 210-A, subsection 1, paragraph C takes effect January 31, 2003.

Sec. D-36. Effective date. This Part takes effect January 31, 2003, except that section of this Part that amends Public Law 2001, chapter 471, Part B, section 10 takes effect when approved.

PART E

Sec. E-1. 5 MRSA §285, sub-§1, ¶H, as amended by PL 2001, c. 439, Pt. XX, §3, is further amended to read:

H. A blind person operating a vending facility pursuant to Title 26, section 1418-F under the direction of the Department of Labor, Division for the Blind and Visually Impaired; ~~and~~

Sec. E-2. 5 MRSA §285, sub-§1, ¶I, as enacted by PL 2001, c. 439, Pt. XX, §4, is amended to read:

I. Any licensed foster parent caring for a child or children in the foster parent's residence whose care is reimbursed through the Department of Human Services for the period during which the child or children are in that foster parent's care; ~~and~~

Sec. E-3. 5 MRSA §285, sub-§1, ¶J is enacted to read:

J. Legislative employees that are recipients of retirement allowances from the Maine State Retirement System based upon creditable service as teachers, as defined by section 17001, subsection 42.

Sec. E-4. PL 2001, c. 450, Pt. E, §2 is amended to read:

Sec. E-2. Transfer of funds. ~~Any unexpended amounts~~ At the close of fiscal year 2001-02 and fiscal year 2002-03, any unencumbered balances

from the General Fund appropriations in this ~~Part~~ Act as amended and adjusted by subsequent Acts of the Legislature that would otherwise lapse to the General Fund must be transferred by the State Controller to the Maine Health Access Fund.

Sec. E-5. P&SL 2001, c. 45, §1 is amended by adding after the 2nd paragraph a new paragraph to read:

A person or entity selling, providing or transmitting electricity generated by the hydropower facilities to a person to whom Great Northern Paper, Inc. supplied or sold electricity generated from the hydropower facilities between July 1, 1997 and January 28, 2002 is exempt for such sale, provision or transmission from regulation as a competitive electricity provider, as defined in the Maine Revised Statutes, Title 35-A, section 3201, or a transmission and distribution utility, as defined in Title 35-A, section 102, unless the Public Utilities Commission, on petition or on its own motion, revokes this exemption. The Public Utilities Commission may revoke the exemption if the commission finds that a person to whom the electricity is sold, provided or transmitted has reasonable access to the electrical grid of a regulated transmission and distribution utility or for any other reason finds that continuance of the exemption is not in the public interest.

Sec. E-6. Retroactivity. That section of this Part that amends Private and Special Law 2001, chapter 45, section 1 is retroactive to January 28, 2002.

PART F

Sec. F-1. PL 2001, c. 578, §§22 and 23 are repealed.

Sec. F-2. Effective date. That section of this Part that repeals Public Law 2001, chapter 578, sections 22 and 23 takes effect 90 days after adjournment of the Second Regular Session of the 120th Legislature.

PART G

Sec. G-1. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Ombudsman Program

Initiative: Provides funds to correct an entry in Public Law 2001, chapter 559, Part B, section 3 that inadvertently deappropriated funds in excess of the program's appropriation.

General Fund	2001-02	2002-03
All Other	\$2,120	\$0

PART H

Sec. H-1. 30-A MRSA §4326, sub-§3, ¶A, as amended by PL 2001, c. 592, §1, is repealed.

Sec. H-2. 30-A MRSA §4326, sub-§3-A, ¶A, as enacted by PL 2001, c. 578, §15, is amended to read:

A. Identify and designate geographic areas in the municipality or multimunicipal region as growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each municipality or multimunicipal region shall:

- (a) Establish development standards;
- (b) Establish timely permitting procedures;
- (c) Ensure that needed public services are available; and
- (d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.

(2) Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(4) A municipality or multimunicipal region is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that it is not possible to accommodate future residential,

commercial or industrial growth in these areas because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources.

(5) A municipality or multimunicipal region is not required to identify growth areas for residential, commercial or industrial growth if it demonstrates that the municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period.

(6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph 4 or 5 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A;

Sec. H-3. Effective date. This Part takes effect 90 days after adjournment of the Second Regular Session of the 120th Legislature.

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

Effective April 11, 2002, unless otherwise indicated.

CHAPTER 668

H.P. 1454 - L.D. 1951

An Act to Amend the Pulling Events Laws

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

Whereas, this legislation amends the laws governing pulling events; and

Whereas, the fairs at which pulling events occur begin in May; and

Whereas, it is necessary to have the changes to the laws in effect in time to apply to the fairs beginning this spring; 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. 7 MRSA §75-A, sub-§3, as enacted by PL 2001, c. 421, Pt. B, §4 and affected by Pt. C, §1, is repealed and the following enacted in its place:

3. Fees. The commissioner shall charge a permit fee of \$40 per pull day for an event sponsored by an entity receiving a stipend under section 62. The commissioner shall charge a seasonal permit fee of \$75 to an entity that does not receive a stipend under section 62. The season permit covers all pulls conducted by that entity for the year in which the permit is issued. All revenue derived from the permit fees must be deposited in a nonlapsing dedicated account.

Sec. 2. 7 MRSA §75-A, sub-§4, ¶G, as enacted by PL 2001, c. 421, Pt. B, §4 and affected by Pt. C, §1, is amended to read:

G. On horses, the very light use of the reins on the hindquarters only is allowed and over and under is not allowed. Whips, brads or goads are not allowed. Reins may not be doubled up. Electrical or electronic devices are not allowed. Open bridles are not allowed. Ponies may not be struck except in a sweepstakes when they may be struck with a cap or bare open hand.

On oxen, the use of the goad must be very light. The goad may not have a brad in it, only a plain yoke and chain or pole that may be pulled, except that a rope may be allowed in children's classes as provided in rules adopted pursuant to subsection 8. All chains must be covered to the hook. Plastic goads are not allowed. The goad stick may not be over 4 feet long unless approved by the pull superintendent and may not exceed 1/2 inch in diameter on the small end. The goad stick may be taped ~~with friction tape~~ but not weighted. The stick may be used lightly on the face to control the oxen but not around the eyes.

Sec. 3. 7 MRSA §75-A, sub-§6, ¶B, as enacted by PL 2001, c. 421, Pt. B, §4 and affected by Pt. C, §1, is amended to read:

B. The Pull Events Commission consists of 11 members:

- (1) Two members appointed by a statewide association representing owners of draft horses and oxen who participate in pulling events, one member appointed by an asso-