

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

D. Calculate the immediate and future cost of restoring the level of benefits for all state employees and teachers who did not have 10 years of creditable service on July 1, 1993;

E. Recommend whether those who were employed as state employees or teachers when the benefit reductions were made should be treated differently than those employed after the changes were enacted; and

F. Identify possible methods of funding the restoration of benefits.

4. Meetings. The task force is authorized to hold not more than 4 meetings to complete its work.

5. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing service to the task force. The Maine State Retirement System shall provide information and actuarial assistance upon request of the cochairs of the task force.

6. Reimbursement. Task force members who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at meetings of the task force. Public members not otherwise compensated are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the task force.

7. Report. The task force shall submit its report with any accompanying legislation to the joint standing committee of the Legislature having jurisdiction over retirement matters by November 6, 2002. Following receipt and review of the report, the joint standing committee may report out a bill to the First Regular Session of the 121st Legislature.

8. Extension. If the task force requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension.

9. Budget. The chairs of the task force, with assistance from the task force staff, shall administer the budget of the task force. Within 10 days after its first meeting, the task force shall present a work plan and proposed budget to the Legislative Council for approval. The task force may not incur expenses that would result in the task force exceeding its approved budget. Upon request from the task force, the Executive Director of the Legislative Council shall provide the task force chairs and staff with a status report on the task force's budget, expenditures incurred and paid and available funds.

See title page for effective date.

CHAPTER 708

S.P. 793 - L.D. 2146

An Act to Establish the Maine Consumer Choice Health Plan

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

Sec. 1. 2 MRSA §6, sub-§2, as amended by PL 1999, c. 731, Pt. F, §1; PL 2001, c. 44, §11 and affected by §14; and amended by c. 354, §3, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Financial Institutions;

State Tax Assessor;

Superintendent of Insurance;

Executive Director of the Maine Consumer Choice Health Plan;

Associate Commissioner for Programs, Department of Behavioral and Developmental Services;

Associate Commissioner of Administration, Department of Behavioral and Developmental Services;

Associate Commissioner for Systems Operations, Department of Behavioral and Developmental Services;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections;

Associate Commissioner for Juvenile Services, Department of Corrections;

Public Advocate;

Chief Information Officer; and

Associate Commissioner for Legislative and Program Services, Department of Corrections.

Sec. 2. 5 MRSA §12004-G, sub-§21-B is enacted to read:

<u>21-B.</u>	<u>Board of</u>	<u>Expenses</u>	<u>24-A</u>
<u>Insurance</u>	<u>Directors of the</u>	<u>Only</u>	<u>MRSA</u>
	<u>Maine Choice</u>		<u>§4346</u>
	<u>Health Con-</u>		
	<u>sumer Plan</u>		

Sec. 3. 24-A MRSA c. 56-B is enacted to read:

CHAPTER 56-B

MAINE CONSUMER CHOICE HEALTH PLAN

§4346. Maine Consumer Choice Health Plan

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

A. "Board" means the Board of Directors of the Maine Consumer Choice Health Plan established in Title 5, section 12004-G, subsection 21-B.

B. "Carrier" means:

(1) An insurance company licensed in accordance with this Title to provide health insurance;

(2) A health maintenance organization licensed pursuant to chapter 56;

(3) A fraternal benefit society as defined by section 4101; or

(4) A nonprofit hospital and medical service organization or nonprofit health care service organization licensed pursuant to Title 24.

C. "Director" means the Executive Director of the Maine Consumer Choice Health Plan.

D. "Eligible employee" or "employee" means an individual who:

(1) Meets the definition of "eligible employee" set forth in section 2808-B, subsection 1, paragraph C;

(2) Is a self-employed individual who:

(a) Works and resides in the State; and

(b) Is organized as a sole proprietorship or in any other legally recognized manner that a self-employed individual may organize, a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income, and who has filed the appropriate United States Internal Revenue Service form for the previous taxable year, and for whom a copy of the appropriate United States Internal Revenue Service form or forms and schedule has been filed with the plan or its administrator; or

(3) Is a sole employee of a nonprofit organization that has been determined by the Internal Revenue Service to be exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3), (4) or (6) and who has a normal work week of at least 20 hours and is not covered under a public or private plan for health insurance or other health benefit arrangement.

E. "Fund" means the Maine Consumer Choice Health Plan Fund.

F. "Plan" means the Maine Consumer Choice Health Plan established in this section.

G. "Small employer" means an eligible group as defined in section 2808-B, subsection 1, paragraph D.

2. Plan established. The Maine Consumer Choice Health Plan is established as an independent executive agency to negotiate and contract with carriers to provide a board-authorized choice of health benefits coverage to eligible enrollees.

On or before January 1, 2006, the board shall initiate a request for proposal process seeking proposals from qualified nonprofit organizations for assumption of the administrative and financial responsibility of the plan. If the board determines that a qualified organization exists, the board, in conjunction with the Governor, shall submit any necessary legislation to accomplish the transfer of the functions of the plan to a nonprofit organization.

3. Board of directors. The plan operates under the supervision of the Board of Directors of the Maine Consumer Choice Health Plan, which consists of 5 voting members.

A. The Governor shall appoint to the board one member representing large employers, 2 members representing small employers, one member representing governmental entities and one member representing consumer health care organizations. Appointments by the Governor are subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters and to confirmation by the Legislature.

B. Initial terms of the members of the board are staggered: 3 members serve 3-year terms and 2 members serve 2-year terms. After the initial terms, members serve full 2-year terms and continue to serve until their successors have been appointed. Board members may serve up to 3 full terms consecutively.

C. Board members shall elect a chair. All meetings of the board are public proceedings within the meaning of Title 1, chapter 13, subchapter I.

D. Board members are entitled to reimbursement for necessary expenses according to the provisions of Title 5, chapter 379.

4. Executive director. The Executive Director of the Maine Consumer Choice Health Plan is the administrator of the plan. The director is appointed by the board and serves at the pleasure of the board.

5. Powers. The board may:

A. Enter into contracts with qualified 3rd parties for any service necessary to carry out the purposes of this chapter;

B. Employ necessary staff;

C. Authorize benefit plan designs offered by participating carriers in accordance with subsection 7 and all applicable statutes and rules;

D. Establish membership fees in accordance with subsection 9 to support the administrative expenses of the plan;

E. Provide, if approved by the board, premium collection services for participating carriers with respect to health benefit plans offered through the plan if the carrier offering the health benefit plan gives express written authorization to the board or any other entity acting on behalf of the board to act as the carrier's agent for that purpose;

F. Establish procedures for adjusting payments within each risk pool to participating carriers if the board finds that some participating carriers have a significantly disproportionate share of high-risk or low-risk enrollees;

G. Establish a financial relationship directly with producers licensed pursuant to chapter 16 to market health benefit plans offered through the plan;

H. Receive any funds necessary, not to exceed \$700,000, as a working capital advance for initial operating expenses in administering the plan. The funds for the working capital advance may be transferred from the Maine Rx Dedicated Fund, established in Title 22, section 2681, notwithstanding Title 22, section 2681, subsection 9, or another source identified by the State Controller, and, if transferred, must be repaid within 2 years of start-up of the plan;

I. Accept grant funding from any public or private sources identified by the board;

J. Perform all lawful acts necessary or convenient in the exercise of any power, authority or jurisdiction over the plan, either in the administration of the plan or to fulfill the purpose of the plan as set forth in this chapter;

K. Undertake activities necessary to administer the plan, including marketing and publicizing the plan and ensuring carrier and enrollee compliance with plan requirements; and

L. Adopt rules as necessary to administer the plan. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A, except that rules adopted relating to the establishment of a risk adjustment mechanism or risk pools pursuant to paragraph F and subsection 10 are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature on or before January 1, 2004.

6. Participating carriers; contracts. The board shall develop objective criteria for the selection of participating carriers and provide adequate notice of the application process to permit all carriers a reasonable and fair opportunity to participate. The selection of participating carriers must be based on the criteria developed by the board.

7. Selection of health plans. The board shall require carriers to offer multiple health plans to ensure that enrollees have a choice among carriers and types of health benefit plans in accordance with this subsection.

A. The plan must offer, at a minimum, a fee-for-service plan, a managed care plan and a point-of-service plan. These health benefit plans may offer a range of deductibles, and must include at least one plan with a high deductible. The plan may offer other health plans in accordance with applicable state or federal law.

B. To the extent possible, the plan must ensure that at least one plan offered pursuant to this subsection is available to enrollees in all geographic areas of the State.

8. Enrollee eligibility. The board may establish conditions for enrollment and participation for enrollees in accordance with this subsection.

A. Small employers are eligible. Employers that choose to participate in the plan shall offer enrollment to all employees and their dependents who are not enrolled in another health plan.

B. Governmental and municipal employers are eligible.

C. Individuals not enrolled in another health plan may participate.

D. Conditions for eligibility may not be based on health status.

E. Eligibility may be extended at the board's discretion to employers with 51 or more employees with the approval of the Legislature. In the event that the board seeks to extend eligibility to employers with 51 or more employees, the board shall notify the joint standing committee of the Legislature having jurisdiction over health insurance matters. The joint standing committee of the Legislature having jurisdiction over health insurance matters may submit legislation to extend eligibility to employers with 51 or more employees under this chapter.

9. Contributions. The board shall establish contributions for participation in the plan, including any membership fees and premiums for health coverage. Enrolled employers shall determine the annual amount, if any, contributed by the employer toward the premium cost of health coverage under the plan for employees and their dependents. The board may establish a mechanism to collect contributions from enrolled employers, including remittance of the share of any premium paid by an employee. The board may coordinate with Maine Revenue Services to develop a mechanism for collection of contributions.

10. Risk pools. The board shall develop standards for classifying groups of participating enrollees into risk pools. The board may establish one or more risk pools consistent with rules adopted by the superintendent for private purchasing alliances pursuant to chapter 18-A.

11. Cost, quality and value measures. The board shall develop and publish objective cost, quality and value measures. The board shall also consider such measures in adopting authorization criteria for health plans.

12. Licensing; regulation. Notwithstanding any other provision of law, the plan is not subject to licensure as an insurer pursuant to this Title. Carriers that contract with the plan must be licensed pursuant to Title 24 or this Title. Health plans offered by participating carriers must comply with all applicable requirements of statutes and rules. Except to the extent inconsistent with this chapter, producers and carriers engaged in activities pursuant to this chapter are subject to all provisions of Title 24 and this Title. Rates for health benefit plans provided to enrollees in the plan by participating carriers are not subject to sections 2736, 2736-A and 2736-B.

13. Marketing. The board shall approve and make available to potential enrollees educational and marketing materials, health benefit plan descriptions, enrollee satisfaction survey results and comparison sheets that accurately summarize the requirements for eligibility and the health benefit plans and premiums offered by participating carriers in the plan. The information provided must enable enrollees and potential enrollees to make informed decisions regarding their enrollment in the plan and their choice of a health benefit plan. Participating carriers may not provide any marketing materials to potential enrollees relating to benefits and premiums for the plan unless authorized by the board.

14. Enrollee satisfaction survey. On an annual basis, the board shall develop a survey to monitor the satisfaction of enrollees participating in the plan. The results of the survey must be made available to enrollees and the public.

15. Fund. The Maine Consumer Choice Health Plan Fund is created as a dedicated fund for the deposit of any funds advanced for initial operating expenses and fees paid by enrollees for administration of the plan. The fund may not lapse, but remains in a continuing carrying account to carry out the purposes of this chapter.

16. Annual report. Beginning February 1, 2003 and annually on or before February 1st thereafter, the board shall submit a report on the operation of the plan to the joint standing committee of the Legislature having jurisdiction over health insurance matters. The report must include information relating to the carriers participating in the plan; the health benefit plans offered through the plan and their premium rates; the total number of enrollees participating in the plan and sorted as to employer size; and the administrative and operating expenses of the plan.

17. Board-approved plans; report. By January 1, 2005, the board in conjunction with the superintendent and the joint standing committee of the Legislature having jurisdiction over insurance matters shall report to the Legislature on the feasibility and appropriateness of requiring all carriers licensed to offer insurance in the State to offer only board-approved plans. This subsection is repealed July 1, 2005.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

Maine Consumer Choice Health Plan

Initiative: Provides a base allocation in the event Other Special Revenue funds are received to operate the Maine Consumer Choice Health Plan. Also adds the Executive Director of the Maine Consumer Choice Health Plan position.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(1.000)
Personal Services	\$0	\$500
All Other	0	500
Total	\$0	\$1,000

See title page for effective date.

CHAPTER 709

S.P. 133 - L.D. 457

An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably

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

Sec. 1. 36 MRSA §1760, sub-§31, ¶A, as enacted by PL 1999, c. 516, §6 and affected by §7, is amended to read:

A. For use by the purchaser directly and primarily in either the production of tangible personal property intended to be sold or leased ultimately for final use or consumption; or in the production of tangible personal property pursuant to a contract with the United States Government or any agency thereof, or, in the case of sales occurring on or after March 1, 2003 but prior to July 1, 2003, in the generation of digital television broadcast signals or, in the case of sales occurring after June 30, 2003, in the generation of radio and television broadcast signals. This exemption applies even if the purchaser sells the machinery or equipment and leases it back in a sale and leaseback transaction. This exemption also applies whether the purchaser agrees before or after the purchase of the machinery or equipment to enter into the sale and leaseback transaction and whether the purchaser's use of the machinery or equipment in production commences before or after the sale and leaseback transaction occurs. As used in this paragraph, "digital television broadcast signal" means an over-the-air signal transmitted by a television station licensed under 47 Code of Federal Regulations, Part 73; and

See title page for effective date.

CHAPTER 710

H.P. 1741 - L.D. 2216

An Act to Correct Recently Enacted Legislation

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

Whereas, certain legislation enacted or passed into law during the Second Regular Session of the 120th Legislature must be immediately corrected or clarified in order to effectuate legislative intent; 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. 1 MRSA §71, sub-§11, as amended by PL 1973, c. 788, §1, is further amended to read:

11. Statutory references. Wherever in the Revised Statutes the word "Title" or "chapter" or "subchapter" appears without definite reference, it refers to the Title or chapter or subchapter in which the word "Title" or "chapter" or "subchapter" appears; if the chapter or subchapter is given a number without reference to a numbered Title, it refers to the chapter or subchapter of the Title in which the numbered chapter or subchapter appears. Wherever in the Revised Statutes a numbered section appears without reference to a numbered Title, it refers to the section of the Title in which the numbered section appears.

Wherever in the Revised Statutes or any legislative Act a reference is made to several sections, subsections, paragraphs, subparagraphs, divisions, subdivisions or sentences, the section, subsection, paragraph, subparagraph, division, subdivision or sentence numbers given in the reference are connected by the word "to," the reference includes both the sections, subsections, paragraphs, subparagraphs, divisions, subdivisions or sentences whose numbers are given and all intervening sections, subsections, paragraphs, subparagraphs, divisions, subdivisions and sentences.

Wherever in the Revised Statutes the designation of a division of the statutes larger than a section is numbered with the use of a Roman numeral, it may be known and cited by its Arabic equivalent.

Sec. 2. 5 MRSA §13070-J, sub-§1, ¶D, as amended by PL 2001, c. 642, §1 and affected by §12