

MAINE STATE LEGISLATURE

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



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

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Revenue Services - Bureau of 0002

Initiative: Appropriates funds to establish one Senior Tax Examiner position and other related operating costs. The fiscal year 2003-04 amount includes \$100,000 to contract for the computer programming necessary to add this new requirement to the computer system in order to account for, print and process returns.

General Fund	2003-04	2004-05
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$18,514	\$60,657
All Other	\$107,955	\$3,755
General Fund Total	\$126,469	\$64,412

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS

	2003-04	2004-05
GENERAL FUND	\$126,469	\$64,412
DEPARTMENT TOTAL - ALL FUNDS	\$126,469	\$64,412

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Beverage Container Enforcement Fund 0971

Initiative: Appropriates funds to establish one Agricultural Compliance Officer position and operating costs necessary to verify commingling agreements.

General Fund	2003-04	2004-05
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$39,257	\$51,181
All Other	\$11,225	\$15,000
General Fund Total	\$50,482	\$66,181

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS

	2003-04	2004-05
GENERAL FUND	\$50,482	\$66,181
DEPARTMENT TOTAL - ALL FUNDS	\$50,482	\$66,181

SECTION TOTALS	2003-04	2004-05
GENERAL FUND	\$176,951	\$130,593
SECTION TOTAL - ALL FUNDS	\$176,951	\$130,593

See title page for effective date.

CHAPTER 500

H.P. 977 - L.D. 1323

An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole

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

Sec. 1. 34-A MRSA c. 9, sub-c. 6 is enacted to read:

SUBCHAPTER 6

THE INTERSTATE COMPACT FOR JUVENILES

§9901. Short title -- Article 1

This subchapter may be known and cited as "the Interstate Compact for Juveniles," which is referred to in this subchapter as "the compact."

§9902. Definitions -- Article 2

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Bylaws. "Bylaws" means those bylaws established by the interstate commission for its governance or for directing or controlling the interstate commission's actions or conduct.

2. Commissioner. "Commissioner" means the voting representative of each compacting state appointed pursuant to section 9903.

3. Compact administrator. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

4. Compacting state. "Compacting state" means any state that has enacted the enabling legislation for this compact.

5. Court. "Court" means a court having jurisdiction over juveniles.

6. Deputy compact administrator. "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a compact administrator pursuant to the terms of this

compact responsible for the administration and management of the State's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

7. Interstate commission. "Interstate commission" means the Interstate Commission for Juveniles established in this subchapter.

8. Juvenile. "Juvenile" means any person defined as a juvenile in any member state or by the rules of the interstate commission, including:

A. An accused delinquent who is a person charged with an offense that, if committed by an adult, would be a criminal offense;

B. An adjudicated delinquent who is a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

C. An accused status offender who is a person charged with an offense that would not be a criminal offense if committed by an adult;

D. An adjudicated status offender who is a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

E. A nonoffender who is a person in need of supervision who has not been accused or adjudicated as a status offender or delinquent.

9. Noncompacting state. "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

10. Probation or parole. "Probation" or "parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

11. Rule. "Rule" means a written statement by the interstate commission promulgated pursuant to section 9904 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact or an organizational, procedural or practice requirement of the interstate commission; and has the force of statutory law in a compacting state, including the ability to amend, repeal or suspend an existing rule.

12. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa and the Northern Marianas Islands.

13. State council. "State council" means the resident members of the state council for interstate

juvenile supervision created by each state under section 9909.

§9903. Interstate Commission for Juveniles -- Article 3

1. Commission created. The compacting states hereby create the Interstate Commission for Juveniles. The commission is a body corporate and joint agency of the compacting states. The commission has all the responsibilities, powers and duties set forth in this section, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

2. Commissioners. The interstate commission consists of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the state council. The commissioner is the compact administrator, deputy compact administrator or designee from that state who serves on the interstate commission in such capacity under or pursuant to the applicable law of the compacting state.

3. Noncommissioner members. In addition to the commissioners who are the voting representatives of each state, the interstate commission includes individuals who are not commissioners but who are members of interested organizations. Those noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general; members of the Interstate Compact for Adult Offender Supervision and Interstate Compact for the Placement of Children; juvenile justice and juvenile corrections officials; and crime victims. All noncommissioner members of the interstate commission are ex officio, nonvoting members. The interstate commission may provide in its bylaws for such additional ex officio, nonvoting members, including members of other national organizations, as it considers necessary.

4. Each state entitled to one vote; quorum. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

5. Meetings. The interstate commission shall meet at least once each calendar year. The chair may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice must be given of all meetings and meetings are open to the public.

6. Executive committee. The interstate commission shall establish an executive committee that

includes commission officers, members and others as determined by the bylaws. The executive committee has power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendments to the compact. The executive committee oversees the day-to-day activities of the administration of the compact managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules; and performs other duties as directed by the interstate commission or as set forth in the bylaws.

7. Member participation. Each commissioner of the interstate commission has the right and power to cast a vote to which the commissioner's state is entitled and to participate in the business and affairs of the interstate commission. A commissioner must vote in person and may not delegate a vote to another compacting state, except a commissioner, in consultation with the state council, may appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

8. Public access to interstate commission records and information. The interstate commission's bylaws must establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

9. Public notice. Public notice of all meetings must be given and all meetings are open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any of its committees may close a meeting to the public where it determines by 2/3 vote that an open meeting would be likely to:

- A. Relate solely to the interstate commission's internal personnel practices and procedures;
- B. Disclose matters specifically exempted from disclosure by statute;
- C. Disclose trade secrets or commercial or financial information that is privileged or confidential;
- D. Involve accusing a person of a crime, or formally censuring a person;

E. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

F. Disclose investigative records compiled for law enforcement purposes;

G. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

H. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

I. Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or other legal proceeding.

10. Process for closed meetings. For every meeting closed pursuant to subsection 9, the interstate commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action must be identified in such minutes.

11. Date collection; records. The interstate commission shall collect standardized data concerning the interstate movement of juveniles as directed through rules specifying the data to be collected, the means of collection and data exchange and the reporting requirements. These methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to up-to-date technology and coordinate the interstate commission's information functions with the appropriate repository of records.

§9904. Powers and duties of interstate commission -- Article 4

1. Powers and duties. The interstate commission has the following powers and duties:

- A. To provide for dispute resolution among compacting states;
- B. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which have the force of statutory law and are binding in the compacting states to the extent and in the manner provided in this compact;

C. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission;

D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;

E. To establish and maintain offices that are located within one or more of the compacting states;

F. To purchase and maintain insurance and bonds;

G. To borrow, accept, hire or contract for services of personnel;

H. To establish and appoint committees and hire staff that the interstate commission deems necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by section 9903 that has the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

I. To elect or appoint officers, attorneys, employees, agents or consultants and to fix their compensation, define their duties and determine their qualifications;

J. To establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

K. To accept any donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of donations and grants;

L. To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any property, real, personal or mixed;

M. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

N. To establish a budget and make expenditures and levy dues as provided in section 9908;

O. To sue and be sued;

P. To adopt a seal and bylaws governing the management and operation of the interstate commission;

Q. To perform functions necessary or appropriate to achieve the purposes of this compact;

R. To report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Annual reports must also include any recommendations that may have been adopted by the interstate commission;

S. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity;

T. To establish uniform standards for reporting, collecting and exchanging data; and

U. To maintain its corporate books and records in accordance with the bylaws.

§9905. Organization and operation of interstate commission -- Article 5

1. Bylaws. The interstate commission shall adopt bylaws by a majority of the members present and voting, within 12 months after the first interstate commission meeting, to govern its conduct as may be necessary or appropriate to carry out the purposes of this subchapter, including, but not limited to:

A. Establishing the fiscal year of the interstate commission;

B. Establishing an executive committee and other necessary committees;

C. Providing for the establishment of committees governing general or specific delegation of any authority or function of the interstate commission;

D. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

E. Establishing the titles and responsibilities of the officers of the interstate commission;

F. Providing a mechanism for concluding the operations of the interstate commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

G. Providing start-up rules for initial administration of the compact; and

H. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

2. Officers and staff. The following provisions govern officers and staff.

A. The interstate commission shall, by a majority of the members, elect annually from among its members a chair and a vice-chair, each of whom has such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the interstate commission. The officers so elected serve without compensation or remuneration from the interstate commission, provided that, subject to the availability of budgeted funds, the officers are reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

B. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission considers appropriate. The executive director serves as secretary to the interstate commission and may hire and supervise such other staff as may be authorized by the interstate commission but may not be a member.

3. Qualified immunity, defense and indemnification. The following provisions govern qualified immunity, defense and indemnification.

A. The interstate commission's executive director and employees are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities. Nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

B. The liability of a commissioner or employee or agent of a commissioner, acting within the scope of such person's employment or duties, for acts, errors or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. Nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury or liability

caused by the intentional or willful and wanton misconduct of any such person.

C. The interstate commission shall defend the executive director or the employees or representatives of the interstate commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in a civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

D. The interstate commission shall indemnify and hold the commissioner of a compacting state, or the commissioner representative or employee, or the interstate commission representative or employee, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, if the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§9906. Rule-making functions of interstate commission -- Article 6

1. Rules. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

Rulemaking must occur pursuant to the criteria set forth in this section and the bylaws and rules adopted pursuant to this section. The rulemaking must substantially conform to the principles of the federal Administrative Procedure Act, 5 United States Code, Section 551 et seq. and the federal Advisory Committee Act, 5 United States Code App. 2 Section 1 et seq., as may be amended, referred to in this subchapter as "the APA," or other administrative procedures act that the interstate commission determines appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court.

All rules and amendments are binding as of the date specified in each rule or amendment.

2. Promulgation of rules. When adopting a rule, the interstate commission shall:

A. Publish the proposed rule stating with particularity the text of the proposed rule and the reason for the proposed rule;

B. Allow persons to submit written data, facts, opinions and arguments, which must be added to the record and made publicly available;

C. Provide an opportunity for an informal hearing, if petitioned by 10 or more persons; and

D. Promulgate a final rule and its effective date, if appropriate, based on the rule-making record, including input from state or local officials and other interested parties.

3. Rule review. No later than 60 days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rule-making record as defined in the APA, the court shall hold the rule unlawful and set it aside.

4. Rule void. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

5. Existing rules suspended. The existing rules governing the operation of the Interstate Compact for Juveniles superseded by this subchapter are void 12 months after the first meeting of the interstate commission.

6. Emergency rule. If the interstate commission determines that an emergency exists, it may promulgate an emergency rule that becomes effective immediately upon adoption as long as the usual rule-making procedures provided under this section are retroactively applied to the rule as soon as reasonably possible but not later than 90 days after the effective date of the emergency rule.

§9907. Oversight, enforcement and dispute resolution by interstate commission -- Article 7

1. Oversight. The interstate commission shall oversee the interstate movement of juveniles in the compacting states and shall monitor activities being

administered in noncompacting states that may significantly affect compacting states.

2. Enforcement. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder must be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. Courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the interstate commission, the interstate commission is to receive all service of process in any such proceeding and has standing to intervene in the proceeding for all purposes.

3. Dispute resolution. The compacting states shall report to the interstate commission on issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.

The interstate commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

4. Commission enforcement. The interstate commission shall enforce the provisions and rules of this compact using all means set forth in section 9911.

§9908. Finance -- Article 8

1. Expenses. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. Assessment. The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff, which must be sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule

binding upon all compacting states that governs the assessment.

3. Obligations. The interstate commission may not incur any obligations of any kind prior to securing the funds adequate to meet the same obligations, nor may the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

4. Accounts. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the interstate commission.

§9909. State council -- Article 9

Each compacting state shall create a state council for interstate juvenile supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial and executive branches of government; victims groups; and the compact administrator or the compact administrator's designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in interstate commission activities and other duties as may be determined by that state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

§9910. Compacting state; effective date; amendment -- Article 10

1. Eligibility. Any state, as defined in section 9902, is eligible to become a compacting state.

2. Effective date. The compact becomes effective and binding upon enactment of the compact into law by no fewer than 35 of the states. The initial effective date is July 1, 2004 or upon enactment into law by the 35th state, whichever is later. After the initial effective date, the compact becomes effective and binding as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

3. Amendment. The interstate commission may propose amendments to the compact for enactment by the compacting states. An amendment does not become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

§9911. Withdrawal, default, termination and judicial enforcement -- Article 11

1. Withdrawal. Once effective, the compact continues in force and remains binding upon each compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact. The effective date of withdrawal is the effective date of the repeal of the compact. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt of the withdrawal notice. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extends beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state occurs on the withdrawing state's reenactment of the compact or upon a later date determined by the interstate commission.

2. Default. If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

A. Remedial training and technical assistance as directed by the interstate commission;

B. Alternative dispute resolution;

C. Fines, fees and costs in such amounts as are determined to be reasonable as fixed by the interstate commission; and

D. Suspension or termination of membership in the compact. Suspension is imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the interstate commission has determined that the offending state is in default. Immediate notice of suspension must be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the

defaulting state's legislature and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a resolution of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state shall resolve its default. If the defaulting state fails to resolve the default within the time period specified by the interstate commission, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact are terminated from the effective date of termination.

Within 60 days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The interstate commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state's legislature and the approval of the interstate commission pursuant to the rules.

3. Judicial enforcement. The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

4. Dissolution of compact. The compact dissolves upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. Upon the dissolution of this compact, the compact becomes void and has no further force or effect. The business and affairs of the interstate commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

§9912. Severability and construction -- Article 12

The provisions of this compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact are enforceable. The provisions of this compact are liberally constructed to effectuate its purposes.

§9913. Binding effect of compact and other laws -- Article 13

1. Other laws. This compact does not prevent the enforcement of any other law of a compacting state that is not inconsistent with this compact. All compacting states' laws, other than state constitutions and other interstate compacts, conflicting with this compact are superseded to the extent of the conflict.

2. Binding effect of compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

If a provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction to be conferred by such provision upon the interstate commission is ineffective. The obligations, duties, powers or jurisdiction remains in the compacting state and is exercised by the agency of the compacting state to which the obligations, duties, powers or jurisdiction is delegated by law in effect at the time this compact becomes effective.

Sec. 2. Legislative intent. The text and numbering of the Interstate Compact for Juveniles have been changed to conform to Maine statutory conventions. The changes are technical in nature, and it is the intent of the Legislature that this Act be

interpreted as substantively the same as the original compact.

See title page for effective date.

CHAPTER 501

H.P. 880 - L.D. 1206

An Act To Encourage Responsible Employment Practices

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

Sec. 1. 5 MRSA §1816-A, sub-§2, ¶I is enacted to read:

I. An equivalent basis for cost comparison between state employee and private contractor provision of services is calculated, as established by rules adopted by the State Purchasing Agent pursuant to section 1825-B, subsection 11, and it is determined that the private contractor provides the best value.

Sec. 2. 5 MRSA §1825-B, sub-§11 is enacted to read:

11. Rulemaking; unfair competition. State departments and agencies may not achieve cost savings due to cost differentials that derive from a bidder's failure to provide health and retirement benefits to its employees. The State Purchasing Agent shall adopt rules governing the purchase of services and the awarding of grants or contracts for personal services to establish a basis for bid price and cost comparison among businesses that provide health and retirement benefits to their employees and those that do not provide these benefits. The rules must include a methodology for calculating bid price and cost differentials for services provided by businesses and state employees due to the provision of health and retirement benefits for employees. The rules must adjust the bid prices to establish an equivalent basis for bid price and cost comparison among businesses when awarding contracts and between businesses and state employees when determining whether or not a contract is permitted under section 1816-A. These rules must apply to all state departments and agencies. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. 3. Effective date. Section 1 of this Act takes effect on July 1, 2004.

See title page for effective date, unless otherwise indicated.

CHAPTER 502

H.P. 1036 - L.D. 1414

An Act To Amend the Laws Regarding Storage of Sand and Salt and To Provide Funding for State and Municipal Storage Facilities

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

Sec. 1. 38 MRSA §413, sub-§2-D, as amended by PL 1999, c. 387, §4, is further amended to read:

2-D. Exemptions; road salt or sand-salt storage piles. The commissioner may exempt any road salt or sand-salt storage area from the need to obtain a license under this section for discharges to groundwaters of the State when the commissioner finds that the exempt activity will not have a significant adverse effect on the quality or classifications of the groundwaters of the State. In making this finding, the commissioner's review must include, but is not limited to, the location, structure and operation of the storage area.

Owners of salt storage areas shall register the location of storage areas with the department on or before January 1, 1986. As required by section 411, the department shall prioritize municipal or quasi-municipal sand-salt storage areas prior to November 1, 1986.

New or existing salt or sand-salt storage areas registered after October 1, 1999 may be exempt from licensing under this section as long as such areas comply with siting, operational and best management practices adopted by rule by the department. Storage areas other than those owned by municipalities or counties and registered prior to October 1, 1999 are exempt from licensing under this section as long as such areas comply with section 451-A, subsection 1-A and with operational and best management practices adopted by rule by the department. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Storage areas owned by the Department of Transportation and registered prior to October 1, 1999 are not in violation of best management practice rules adopted by the department pursuant to this subsection if the Department of Transportation complies with the reporting requirements in section 451-A.

Sec. 2. 38 MRSA §451-A, sub-§1-B is enacted to read:

1-B. Department of Transportation storage areas. A sand and salt storage area owned by the