

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section. ~~The revenue from this service fee each year must amount to \$135,000 and must be credited to the fund established in subsection 1 and used to carry out the purposes of this section and of Title 38, section 1453-A. If the Advisory Commission on Radioactive Waste, as established in Title 38, section 1453-A is dissolved, the service fee ceiling must be lowered by the amount of the budget of that commission.~~

**Sec. B-11. 25 MRSA §52, sub-§3,** as amended by PL 2003, c. 673, Pt. S, §1, is repealed.

### PART C

**Sec. C-1. PL 1997, c. 686, §12,** as amended by PL 1999, c. 366, §3, is further amended to read:

**Sec. 12. Reimbursement.** Maine Yankee Atomic Power Company shall reimburse the Department of Environmental Protection for actual costs incurred in conducting activities related to decommissioning by the department's regular or project staff or by the department's contractors. Reimbursement charges may not exceed \$70,000 in fiscal year 1997-98 or \$100,000 in fiscal year 1998-99. Reimbursement charges may not exceed \$50,000 for each remaining year of decommissioning activity. Payments required under this section cease upon the July 2005 payment of \$50,000 to the department in fiscal year 2005-06.

**Sec. C-2. PL 1997, c. 700, §10** is amended to read:

**Sec. 10. Payment by Maine Yankee Atomic Power Plant.** The Maine Yankee Atomic Power Plant shall pay \$25,000 by July 1st of each year to the Department of Environmental Protection to support legislative allocations to the department associated with the Advisory Commission on Radioactive Waste and Decommissioning. Payments required under this section cease on the date of the ~~final operating license termination of the Maine Yankee Atomic Power Plant~~ that the former plant site, except for the spent fuel storage facility, is released from operating license requirements by the Nuclear Regulatory Commission. Any unobligated balance remaining ~~must be returned to~~ may be used by the department to pay costs incurred in overseeing and monitoring the site of the Maine Yankee Atomic Power Plant until the balance is exhausted.

### PART D

**Sec. D-1. 22 MRSA §663,** as amended by PL 1997, c. 686, §4 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. D-2. Effective date.** This Part takes effect September 30, 2006.

### PART E

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

#### EXECUTIVE DEPARTMENT

##### Public Advocate 0410

Initiative: Allocates funds for the payment of costs incurred by agencies related to the decommissioning of the Maine Yankee nuclear power plant.

#### OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	\$270,000	\$217,500

OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$270,000	\$217,500

See title page for effective date, unless otherwise indicated.

### CHAPTER 255

#### H.P. 165 - L.D. 214

#### An Act To Recognize the Federal Salary Level for Overtime When Higher than the State Level

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

**Sec. 1. 26 MRSA §663, sub-§3, ¶K,** as repealed and replaced by PL 1999, c. 465, §7, is amended to read:

K. A salaried employee who works in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3000 times the State's minimum hourly wage or the annualized rate established by the United States Department of Labor under the federal Fair Labor Standards Act, whichever is higher.

See title page for effective date.

### CHAPTER 256

#### H.P. 1049 - L.D. 1492

#### An Act To Permit the Department of Health and Human Services To Charge Fees to Homestead Facility Residents

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

**Sec. 1. 34-B MRSA §1409, sub-§1, ¶B-1** is enacted to read:

B-1. "Resident," for purposes of this section and this section only, means any of the following:

(1) A person who is an inpatient;

(2) A person who is an outpatient receiving services from any state institution, including outpatient clinic services; or

(3) A resident of the Homestead facility.

**Sec. 2. 34-B MRSA §1409, sub-§1, ¶C**, as enacted by PL 1983, c. 580, §5, is amended to read:

C. "State institution," for purposes of this section and this section only, includes the Freeport Towne Square and the Homestead facility.

**Sec. 3. 34-B MRSA §1409, sub-§2, ¶A**, as enacted by PL 1983, c. 459, §7, is amended to read:

A. The commissioner shall establish by rule charges for the care and treatment of residents at any state institution. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 34-B MRSA §1409, sub-§13**, as enacted by PL 1991, c. 528, Pt. Q, §6 and affected by Pt. RRR and enacted by c. 591, Pt. Q, §6, is amended to read:

**13. Special revenue account; Riverview Psychiatric Center and Homestead facility.** The commissioner shall establish a special revenue account for the ~~Augusta Mental Health Institute~~ Riverview Psychiatric Center and the Homestead facility and shall deposit into it payments or income received from residents of the ~~Augusta Mental Health Institute~~ Riverview Psychiatric Center and the Homestead facility, the Medicaid program or other 3rd-party payors. The commissioner shall use the funds on deposit for expenses of the ~~Augusta Mental Health Institute~~ Riverview Psychiatric Center and the Homestead facility.

**Sec. 5. 34-B MRSA §1409, sub-§15**, as amended by PL 1993, c. 508, Pt. J, §1, is further amended to read:

**15. General Fund accounts; disproportionate share hospital match.** The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the ~~Augusta Mental Health Institute~~ Riverview Psychiatric Center and the Bangor

Mental Health Institute. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes.

**Sec. 6. Appropriations and allocations.**

The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Homestead Facility**

Initiative: Provides an initial allocation for the Homestead Facility, Other Special Revenue Funds account for payments or income received from residents of the facility, the Medicaid program or other 3rd-party payments.

**OTHER SPECIAL REVENUE**

FUNDS	2005-06	2006-07
Unallocated	\$500	\$500
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$500	\$500

See title page for effective date.

**CHAPTER 257**

**H.P. 799 - L.D. 1156**

**An Act To Protect Public Health by  
Clarifying the Laws Regarding  
Smoking in Public Places**

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

**Sec. 1. 22 MRSA §1541, sub-§§1 and 2**, as enacted by PL 1993, c. 342, §1 and affected by §9, are amended to read:

**1. Designated smoking area.** "Designated smoking area" means an enclosed area designated as a place for smoking. A designated area must be designed to ~~minimize~~ prevent smoke escaping from the designated area into a public place.

**2. Enclosed area.** "Enclosed area" means a space between a floor and a ceiling that is demarcated on all sides by ~~floor-to-ceiling~~ walls, windows, shutters, doors or passageways. ~~Partitions, partial walls or office dividers that do not extend from the floor to the ceiling are not demarcations of enclosed areas.~~ A partition, partial wall or office divider is a demarcation of an enclosed area if it extends from the floor to within 4 feet of the ceiling or from the ceiling to within 4 feet of the floor.

**Sec. 2. 22 MRSA §1542, sub-§1**, as enacted by PL 1993, c. 342, §1 and affected by §9, is amended to read: