

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$354,628,374
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Total Operating Allocation

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 90% transition percentage plus transition adjustment pursuant to Title 20-A, section 15686 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,558,863,193
	<u>\$1,558,201,964</u>

Total Debt Service Allocation

Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$86,741,023
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Total Adjustments and Miscellaneous Costs

Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	\$51,570,351
	<u>\$52,231,580</u>

Total Cost of Funding Public Education from Kindergarten to Grade 12

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2006-07 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	\$1,697,174,567
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Sec. 11. Employer's share of teacher retirement costs in fiscal year 2006-07 and fiscal year 2007-08. Notwithstanding the Maine Revised Statutes, Title 20-A, section 15681, subsection 1, paragraph B, it is the intent of the Legislature that a portion of the targeted funds to implement a standards-based system be dedicated to meet the employer's share of teacher retirement costs attributable to achieving a \$27,000 minimum teacher salary in fiscal year 2006-07. It is further the intent of the Legislature that the amount required to meet the employer's share of teacher retirement costs attributable to achieving a \$30,000 minimum teacher salary in fiscal year 2007-08 be transferred by the 123rd Legislature to the Maine State Retirement System in the appropriate fiscal year.

Sec. 12. Future appropriations. It is the intent of the Legislature that at least \$2,118,308 be appropriated in fiscal year 2007-08 by the 123rd Legislature to carry out the intent of the Maine Revised Statutes, Title 20-A, section 13406 and section 15689, subsection 7, paragraph C.

See title page for effective date.

CHAPTER 636**H.P. 706 - L.D. 1021**

An Act To Implement Task Force Recommendations Relating to Parity and Portability of Benefits for Law Enforcement Officers and Firefighters

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

PART A

Sec. A-1. 5 MRSA §285, sub-§1-B, as amended by P&SL 1993, c. 67, §1, is repealed and the following enacted in its place:

1-B. Ineligibility. Except as provided in subsection 11-A, members of the Maine Municipal Association, members of the Maine Education Association and employees of counties and municipalities and instrumentalities thereof, including quasi-municipal corporations, are not eligible to participate in the group health plan under this section.

Sec. A-2. 5 MRSA §285, sub-§11-A is enacted to read:

11-A. Coverage for retired law enforcement officers and firefighters. A retired county or municipal law enforcement officer or retired municipal firefighter, as defined in section 286-M, subsection 2, who participates in an employer-sponsored retirement program and, prior to July 1, 2007, was enrolled in a self-insured health benefits plan offered by the employing county or municipality may, if the requirements of this subsection are met, enroll in a group health plan administered pursuant to this section that provides coverage for the retired county or municipal law enforcement officer or retired municipal firefighter effective no earlier than July 1, 2007.

A. A retiree who fails to enroll in a group health plan pursuant to this subsection is not otherwise eligible to enroll in such a plan and is not eligible for the premium subsidy provided pursuant to this subsection for enrollment in any other health plan. Retirees may enroll themselves, their spouses or their dependents in a group health

plan during the following time periods, as applicable.

(1) When the effective date of retirement from the county or municipality is on or before May 1, 2007, the retiree must enroll in the plan before July 1, 2007.

(2) When the effective date of retirement from the county or municipality is after May 1, 2007, the retiree must enroll in the plan no later than 60 days following the effective date of retirement from the county or municipality.

(3) Notwithstanding the requirements of subparagraphs (1) and (2), when the retiree, the retiree's spouse or the retiree's dependent experiences an involuntary loss of other health insurance coverage carried as of July 1, 2007 or 60 days following the date of the retiree's retirement, whichever is later, the retiree may elect to enroll in the plan no later than 60 days after the effective date of the loss of that coverage. Involuntary loss of coverage does not include a loss of coverage arising as a result of nonpayment of premiums.

B. Eligible persons enrolling in a group health plan in which the retiree enrolls pursuant to this subsection are responsible for the premium payment associated with participation in the plan to the extent such an obligation exists following application of any premium subsidy. Failure to remit premium payments in the manner required by the administration policies of the group health plan must result in disenrollment from the plan.

C. The State shall pay a premium subsidy that equals the dollar amount equivalent to the highest premium subsidy provided in accordance with section 286-M, subsection 6 or 45% of the cost of the retiree's share of the individual premium for the standard plan identified and offered under the group health insurance plan in which the retiree enrolls pursuant to this subsection, whichever is less. A retiree electing to enroll a spouse or dependent in the plan is responsible for payment of 100% of the cost of such coverage, in addition to that portion of the retiree's individual premium cost not contributed by the State.

Sec. A-3. 5 MRSA c. 13, sub-c. 3 is enacted to read:

SUBCHAPTER 3

HEALTH INSURANCE PROGRAM FOR RETIRED LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

§286-M. Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program

1. Program established. The Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program is established to provide health insurance coverage to retired county and municipal law enforcement officers and retired municipal firefighters.

2. Definitions. As used in this subchapter, the following terms have the following meanings.

A. "County or municipal law enforcement officer" means a person who by virtue of employment by a county or municipal government in the State is vested by law with the power to make arrests for crimes or serve criminal process, whether that power extends to all crimes or is limited to specific crimes. "County or municipal law enforcement officer" does not include a state or federal law enforcement officer, an attorney prosecuting for a county or municipal government or a reserve officer.

B. "Dependent" means a spouse, an unmarried child under 19 years of age, a child who is a student under 23 years of age and financially dependent upon the enrollee, a child of any age who is disabled and dependent upon the enrollee or a domestic partner as defined in Title 24-A, section 2741-A.

C. "Division" means the Department of Administrative and Financial Services, Division of State Employee Health Insurance.

D. "Enrollee" means a county or municipal law enforcement officer or municipal firefighter who has enrolled in the program.

E. "Fund" means the Firefighters and Law Enforcement Officers Health Insurance Program Fund established in subsection 7.

F. "Group health plan" or "group health insurance plan" means any employer-sponsored group health insurance plan, whether self-insured or fully insured, that provides coverage to eligible employees, retirees and their dependents.

G. "Majority multiple-employer welfare arrangement" means the multiple-employer welfare arrangement, as defined in Title 24-A, section

6601, subsection 5, in which the majority of state municipal government employees are enrolled as of the effective date of this section.

H. "Municipal firefighter" means a person employed by a municipal fire department with the primary responsibility of aiding in the extinguishment of fires and includes a member of emergency medical services line personnel but does not include a member of a volunteer firefighter association. For the purposes of this paragraph, "emergency medical services line personnel" means persons who are career employees employed full-time by a public sector agency or employer and whose primary responsibility is to provide emergency medical services.

I. "Program" means the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program established in this section.

3. Eligibility for program coverage. A person must make contributions pursuant to subsection 8 for 60 months or the payment required pursuant to subsection 9 in order to be eligible for coverage under the program. In addition, a person must satisfy the eligibility criteria specified in this subsection as follows:

A. The person must:

- (1) Be at least 50 years of age;
- (2) Be a retired county or municipal law enforcement officer or a retired municipal firefighter;
- (3) Have, while actively employed as a county or municipal law enforcement officer or municipal firefighter, participated in the person's employer's health insurance plan or other fully-insured health insurance plan; and
- (4) Receive or be eligible to receive:
 - (a) If retired from at least 25 years of service in a position as a county or municipal law enforcement officer or a municipal firefighter, a retirement benefit from the Maine State Retirement System or a defined contribution retirement plan other than the United States Social Security Act; or
 - (b) If retired from less than 25 years of service in a position as a county or municipal law enforcement officer or a municipal firefighter, a retirement benefit from the Maine State Retirement

ment System or a defined contribution retirement plan other than the United States Social Security Act, as long as the benefit provided is at least 50% of average final compensation, with no reduction for early retirement and with or without a cost-of-living adjustment; or

B. The person must be a dependent of a person meeting the criteria of paragraph A.

4. Program administration. The program is administered by the division. The division shall:

A. Enter into administrative arrangements with fully insured health insurance product vendors to implement the purposes of this section;

B. Remit authorized premium subsidy payments for enrolled eligible persons and enrolled dependents to any fully insured group health insurance plans on a periodic basis, as established by agreements with the providers of those plans. The dollar value of the subsidy payment may vary with the premium cost of the benefit plan in which the enrollee participates; and

C. Adopt rules to implement the purposes of this section, including the determination of the program subsidy for enrollees pursuant to subsection 6. Rules adopted under this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

5. Enrollment. A county or municipal law enforcement officer, a municipal firefighter or a person retired from such a position is eligible to enroll in the program. An eligible person who fails to enroll in the program pursuant to this subsection is not otherwise eligible to enroll in the program and is not eligible for the premium subsidy provided pursuant to this section for enrollment in any other health plan. Notwithstanding the date of enrollment, insurance coverage is not effective until the date of retirement or July 1, 2007, whichever occurs later. Eligible persons may enroll themselves, their spouses and their dependents in the program during the following time periods:

A. When the effective date of hire of the eligible person is on or before November 1, 2006, the eligible person must enroll in the program before January 1, 2007, subject to the enrollment and eligibility requirements of the applicable group health plan;

B. When the effective date of hire of the eligible person is after November 1, 2006, the eligible person must enroll in the program no later than 60 days following the effective date of hire, sub-

ject to the enrollment and eligibility requirements of the applicable group health plan; or

C. Notwithstanding paragraphs A and B, when the eligible person, the eligible person's spouse or the eligible person's dependent experiences an involuntary loss of other health insurance coverage carried as of January 1, 2007 or 60 days following the date of the eligible person's hire, whichever is later, the eligible person may elect to enroll in the program no later than 60 days after the effective date of the loss of that coverage, subject to the enrollment and eligibility requirements of the applicable group health plan. Involuntary loss of coverage does not include a loss of coverage arising as a result of nonpayment of premiums.

6. Premiums; subsidy. Premiums for the program and the premium subsidy are subject to the provisions of this subsection. Premium subsidies are not provided for supplemental health insurance coverage.

A. An enrollee participating in the majority multiple-employer welfare arrangement is responsible for the premium payment associated with the cost of the majority multiple-employer welfare arrangement benefit option in which the enrollee is participating, to the extent such premium obligations exist following the application of any premium subsidy authorized by law. An enrollee who fails to remit the premium payments as established and required by the majority multiple-employer welfare arrangement must be disenrolled from the program. Beginning July 1, 2007, the State shall provide a premium subsidy for enrollees in the form of a direct payment to the majority multiple-employer welfare arrangement for each enrollee. The level of the subsidy must equal 45% of the individual premium cost for the enrollee and varies among enrollees depending upon the terms of the majority multiple-employer welfare arrangement coverage plan in which each enrollee is participating. Enrollees are responsible for the balance of the applicable individual premium, as well as the total cost of the premium for any applicable dependent coverage, and shall make payments directly to the majority multiple-employer welfare arrangement.

B. Enrollees retiring from counties or municipalities that do not participate in the majority multiple-employer welfare arrangement but who are eligible and elect to participate in that county's or municipality's fully insured health benefits plan are responsible for the premium payment associated with the cost of that plan, to the extent such premium obligations exist following the application of any premium subsidy

authorized by law. An enrollee who fails to remit the premium payments as established and required by the fully insured plan must be disenrolled from the program. Beginning July 1, 2007, the State shall provide a premium subsidy for enrollees participating in fully insured health benefits plans pursuant to this subsection. This subsidy must be made in the form of a direct payment to the enrollee's health benefits plan and must equal 45% of the individual premium cost for the enrollee or a dollar amount equivalent to the highest premium subsidy provided in accordance with paragraph A, whichever is less. A retiree electing to enroll a spouse or a dependent in the program is responsible for payment of 100% of such coverage in addition to that portion of the retiree's individual premium cost not contributed by the State.

7. Fund established. The Firefighters and Law Enforcement Officers Health Insurance Program Fund is established as a nonlapsing, dedicated account administered by the division. Money appropriated by law for the purpose of paying premium subsidies must be deposited in the fund. Premium dividends accruing to the State, return of premiums resulting from risk reduction programs, active employee contributions pursuant to subsection 8 and any other receipts must be deposited into the fund to be used for the purposes of the program. The fund is a pooled account. Individual law enforcement officers and firefighters do not have a right to money deposited in the fund except to the extent premium subsidies are available to program enrollees.

8. Employee contributions to the fund. The contributions of enrollees to the fund are governed by this subsection.

A. Beginning January 1, 2007, each enrollee who participates as an active employee in a retirement plan shall contribute 1.5% of that enrollee's gross wages to the fund.

B. The employer of an enrollee required to contribute to the fund shall remit on a monthly basis that enrollee's contribution to the fund.

9. Retirees without 5 years of contributions to fund. A person who retires without making 60 months of contributions to the fund but who meets the other eligibility criteria of subsection 3, referred to in this subsection as "the retiree," is eligible to participate pursuant to this subsection.

A. The retiree is eligible for coverage under the program upon enrollment.

B. The retiree shall pay the dollar equivalent of the retiree's scheduled contributions based upon the following schedule:

(1) A retiree who is at least 50 years of age and under 55 years of age shall pay 2% of that retiree's average final monthly compensation multiplied by 60;

(2) A retiree who is at least 55 years of age and under 60 years of age shall pay 1.75% of that retiree's average final monthly compensation multiplied by 60; and

(3) A retiree who is at least 60 years of age shall pay 1.5% of that retiree's average final monthly compensation multiplied by 60.

As used in this paragraph, "average final monthly compensation" means the average annual rate of earnable compensation, divided by 12, of a retiree during the 3 years of creditable service as a county or municipal law enforcement officer or municipal firefighter, not necessarily consecutive, in which the average annual rate of earnable compensation is highest or during the retiree's entire period of creditable service as a county or municipal law enforcement officer or municipal firefighter, if the period is less than 3 years.

C. If the retiree has made contributions to the fund while employed as a county or municipal law enforcement officer or municipal firefighter, the retiree shall pay the difference between:

(1) The total of the retiree's employee contributions required pursuant to paragraph B based on the retiree's age as of the date of retirement; and

(2) The dollar equivalent of the retiree's scheduled contributions for 60 months pursuant to subsection 8.

D. The retiree shall make the payments required by paragraph B or C to the division within 12 months of enrollment in the program. A retiree who fails to make the required payment within 12 months of enrollment must be disenrolled from the program.

10. Coverage under the program. The benefits, copayments and deductibles under the program are determined by the fully insured health benefits plan in which the retired enrollee participates. Pursuant to the rules of the applicable plan, a retired enrollee is required to participate in the same health insurance plan as the active employees of the unit of government from which the enrolled person has retired. Participation in any qualified health insurance plan is subject to the rules of that plan.

11. Volunteer and call firefighters and reserve law enforcement officers. A member of a volunteer or call firefighters' association in this State, as well as

a person serving as a county or municipal law enforcement officer on a reserve basis, is eligible to participate in the program of health benefits coverage established pursuant to the eligibility criteria and other provisions set forth in Title 24-A, chapter 87 if that person meets the eligibility requirements under that chapter.

12. Report. The division shall submit a report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters in the Second Regular Session of the 124th Legislature, and biennially thereafter, on the status of the program, program participation and the financing of the program, including the status of the fund, expenditures from the fund, current and projected premium costs to the program and to program enrollees and a projection of funding needs for the next 5 years. The report must provide options, based on projections of future need, for changing the method of funding any state-paid premium subsidy, if such a subsidy is authorized by law, and employee contributions.

Sec. A-4. 5 MRSA §1534, sub-§1, as amended by PL 2005, c. 621, §3, is further amended to read:

1. Establishment of General Fund appropriation limitation. As of December 1st of each even-numbered year, there must be established a General Fund appropriation limitation for the ensuing biennium. The General Fund appropriation limitation applies to all General Fund appropriations, except that the additional cost for essential programs and services for kindergarten to grade 12 education under Title 20-A, chapter 606-B over the fiscal year 2004-05 appropriation for general purpose aid for local schools is excluded from the General Fund appropriation limitation until the state share of that cost reaches 55% of the total state and local cost and except that the additional state costs for the Retired County and Municipal Law Enforcement Officers and Municipal Firefighters Health Insurance Program, established pursuant to chapter 13, is excluded from the General Fund appropriation limitation.

A. For the first fiscal year of the biennium, the General Fund appropriation limitation is equal to the biennial base year appropriation multiplied by one plus the growth limitation factor in subsection 2.

B. For the 2nd year of the biennium, the General Fund appropriation limitation is the General Fund appropriation limitation of the first year of the biennium biennial base year appropriation multiplied by one plus the growth limitation factor in subsection 2.

Sec. A-5. Appropriations and allocations.

The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES,
DEPARTMENT OF**

**Firefighters and Law Enforcement Officers Health Insurance
Program Fund**

Initiative: Allocates funds for an Employee Benefits Technician position effective January 1, 2007 and related All Other costs to administer the subsidy program for health insurance for eligible retired firefighters and law enforcement officers.

FIREFIGHTERS AND LAW**ENFORCEMENT OFFICERS HEALTH**

INSURANCE PROGRAM FUND	2005-06	2006-07
POSITIONS -		
LEGISLATIVE COUNCIL	0.000	1.000
Personal Services	\$0	\$26,000
All Other	\$0	\$55,000

FIREFIGHTERS AND LAW**ENFORCEMENT OFFICERS****HEALTH INSURANCE PROGRAM**

FUND TOTAL	\$0	\$81,000
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PART B

Sec. B-1. 5 MRSA §17656, sub-§1, ¶D is enacted to read:

D. If the plan from which the member is transferring and the plan to which the member is transferring are both plans described in section 286-M, subsection 3, paragraph A, subparagraph (3), the member may elect to make the contribution necessary to include all or part of the member's creditable service and earnable compensation from the prior plan in the new plan. The retirement system shall establish procedures for determining the contribution necessary for such a member to carry forward all or part of the creditable service and earnable compensation from a prior plan or plans.

Sec. B-2. 5 MRSA §18253, sub-§1, ¶E is enacted to read:

E. If the plan from which the member is transferring and the plan to which the member is transferring are both plans described in section 286-M, subsection 3, paragraph A, subparagraph (3), the member may elect to make the contribution necessary to include all or part of the member's creditable service and earnable compensation from the prior plan in the new plan. The retirement system shall establish procedures for determining the contribution necessary for such a member to carry forward all or

part of the creditable service and earnable compensation from a prior plan or plans.

See title page for effective date.

CHAPTER 637**S.P. 743 - L.D. 1944**

**An Act To Implement Certain
Recommendations of the Washington
County Economic Development Task
Force**

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

Sec. 1. 30-A MRSA §5250-I, sub-§7-A is enacted to read:

7-A. Experiential tourism. "Experiential tourism" means tourism that allows individuals to be active participants in outdoor recreational activities including but not limited to: hiking, camping, birding and other wildlife viewing, nature photography, visits to historical and cultural sights and museums, nature tourism, adventure tourism and ecotourism.

Sec. 2. 30-A MRSA §5250-J, sub-§1, ¶D, as amended by PL 2005, c. 451, §1, is repealed and the following enacted in its place:

D. Washington County and the Downeast region including 2 pilot projects to be established by the commissioner:

(1) A pilot project for the property of the former Cutler naval computer and telecommunications station, which may be excluded from the qualified business definitions established under section 5250-I, subsections 16 and 17 if a for-profit business is engaged in, or will engage in, tourism development including recreational tourism, experiential tourism, hotel development and resort facility development; and

(2) A pilot project that allows seasonal employees in seasonal industries based on natural resources to be considered qualified Pine Tree Development Zone employees for the purposes of section 5250-I, subsection 18; and

Sec. 3. Pilot projects in Washington County. The Commissioner of Economic and Community Development shall report by February 15, 2008 to the joint standing committee of the Legislature having jurisdiction over taxation matters and the joint standing committee of the Legislature having jurisdic-