

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.

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the Governor and publish the report on the auditor's publicly accessible website. The report must include a detailed description of the nature of the complaint, the office, bureau or division within the department or any agency that is the subject of the complaint, the determination of potential cost savings, if any, any recommended action and a statement indicating the degree to which the complaint has been substantiated. The report must be submitted no later than 120 days after the State Auditor receives the complaint. In addition, the State Auditor shall publish a semiannual report to the Governor and Legislature of the complaints received by the hotline or other referral service, which may be electronically published. The report must include the following information:

A. The total number of complaints received;

B. The number of referrals of fraud or other criminal conduct to the Attorney General;

C. The number of referrals of agency performance issues to the Office of Program Evaluation and Government Accountability; and

D. The number of investigations by the State Auditor by current status whether opened, pending, completed or closed.

5. Repeal. This section is repealed July 1, 2009.

Sec. 3. Establishment of referral criteria; report. Prior to commencement of a hotline or other referral service established by the State Auditor to receive complaints of fraud, waste, inefficiency or abuse in State Government, the State Auditor, the Attorney General and the Director of the Office of Program Evaluation and Government Accountability shall work together to establish criteria for the referral of such complaints received and coordination of the response between the appropriate agencies. The State Auditor shall report the results of this effort to the joint standing committee of the Legislature having jurisdiction over state and local government matters no later than 30 days following development of the criteria or at the next meeting convenient for the committee to receive the report.

See title page for effective date.

CHAPTER 683

H.P. 1449 - L.D. 2055

An Act To Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 2 MRSA §6, sub-§2, as amended by PL 2005, c. 405, Pt. D, §1 and c. 412, §1, is repealed and the following enacted in its place:

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;

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;

Deputy Commissioner of Integrated Services, Department of Health and Human Services;

Deputy Commissioner of Health, Integrated Access and Strategy, Department of Health and Human Services;

Chief Information Officer;

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

Chief of the State Police.

Sec. A-2. 2 MRSA §6, sub-§3, as amended by PL 2005, c. 397, Pt. A, §2; c. 405, Pt. D, §2; and c. 412, §2, is repealed and the following enacted in its place:

3. Range 89. The salaries of the following state officials and employees are within salary range 89:

Director, Bureau of General Services;

Director, Bureau of Alcoholic Beverages and Lottery Operations;

State Budget Officer;

State Controller;

Director of the Bureau of Forestry;

Director, State Planning Office;

Director, Energy Resources Office;

Director of Human Resources;

Director, Bureau of Parks and Lands; and

Director of Econometric Research.

Sec. A-3. 4 MRSA §807-A, 2nd ¶, as amended by PL 2005, c. 218, §1 and c. 332, §1, is repealed and the following enacted in its place:

Upon promulgation of and in accordance with rules adopted by the Supreme Judicial Court, employees of the Department of Administrative and Financial Services, Bureau of Revenue Services may serve civil process and represent the bureau in District Court in disclosure proceedings pursuant to Title 14, chapter 502, ancillary to the collection of taxes for which warrants have been issued pursuant to Title 36, and may represent the State Tax Assessor in arraignment proceedings in District Court in cases in which a criminal complaint has been filed alleging violation of a provision of Title 36.

Sec. A-4. 5 MRSA §95, sub-§10-C, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

10-C. Legislative records. To receive ~~Legislative~~ legislative records, ~~the~~ The Secretary of the Senate and the Clerk of the House of Representatives shall obtain the noncurrent records of the Legislature and of each legislative committee at the close of each

Legislature and transfer them to the Maine State Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively, and subject to schedules established in consultation with the Executive Director of the Legislative Council;

Sec. A-5. 5 MRSA §957, sub-§4, as repealed and replaced by PL 1991, c. 591, Pt. III, §10, is amended to read:

4. Funds. The Department of ~~Administration~~ Administrative and Financial Services shall receive and disburse funds made available to the program through the provisions of section 286-A. The Director of the Bureau of Human Resources shall oversee the implementation and administration of the program. Funds made available to the department for the purposes of this section, from any source, may not lapse, but must be carried forward to the next fiscal year to be expended for the same purpose.

Sec. A-6. 5 MRSA §1507, sub-§6, as amended by PL 1987, c. 395, Pt. A, §18, is further amended to read:

6. Claims. The Governor shall allocate funds from the account for the payment of claims approved or partially approved by the State Claims Commission under section ~~1510~~ 1510-A.

Sec. A-7. 5 MRSA c. 372, as amended, is further amended by repealing the chapter headnote and enacting the following in its place:

PART 17-A

CIVIL SERVICE

CHAPTER 372

STATE CIVIL SERVICE SYSTEM

Sec. A-8. 5 MRSA c. 373, as amended, is further amended by repealing the chapter headnote and enacting the following in its place:

PART 17-B

COMMUNITY SERVICE

CHAPTER 373

MAINE COMMISSION FOR COMMUNITY SERVICE

Sec. A-9. 5 MRSA §12004-I, sub-§5, as enacted by PL 1987, c. 786, §5, is amended to read:

5.	Board of	Expenses	34-A
Corrections	Visitors	Only	MRSA
	(For each		§3002

institution §3001-A
under the
department)

Sec. A-10. 5 MRSA Pt. 19, as amended, is further amended by repealing the Part headnote and enacting the following in its place:

PART 19

RESEARCH AND DEVELOPMENT

Sec. A-11. 7 MRSA §1034, as amended by PL 2005, c. 294, §18, is further amended to read:

§1034. Inspection

~~As a part of an annual plan proposed and approved pursuant to section 1033, subsection 4, the~~ The Maine Potato Board may employ inspectors and may require payments for inspection at a rate and schedule to be established by rule by the commissioner. The commissioner shall develop proposed rules.

Sec. A-12. 7 MRSA §2902-B, sub-§4, as enacted by PL 2005, c. 270, §3, is reallocated to 7 MRSA §2902-B, sub-§5.

Sec. A-13. 7 MRSA §2954, sub-§1, as amended by PL 2005, c. 396, §1, is further amended to read:

1. Commission empowered to establish prices; public hearing. The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices, are to respond to other conditions affecting prevailing Class I, Class II and Class III prices in southern New England or are to reflect the milk handling fee levied and imposed by Title 36, chapter 721. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under ~~the~~ this subsection. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information

gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.

Sec. A-14. 10 MRSA §1013, sub-§14, as amended by PL 1997, c. 732, §2, is repealed.

Sec. A-15. 12 MRSA §8879, sub-§1-A, as enacted by PL 2001, c. 564, §2, is amended to read:

1-A. Report on changes in ownership of forest land. Using information received under Title 36, section ~~581-E~~ 581-G, the director shall monitor changes in ownership of parcels of forest land that are 1,000 acres or greater in area within the municipalities of the State and classified under the Maine Tree Growth Tax Law. Using information received under Title 36, sections ~~581-E and 581-F~~ and 581-G, the director shall monitor the number of parcels classified under the Maine Tree Growth Tax Law and the distribution of parcels by size. The biennial report must include information on the number of parcels, classified by size categories, for the organized and unorganized territories of the State. The information must be presented in a manner that facilitates comparison from year to year.

In assessing changes in forest land ownership, the director shall also consider information reported pursuant to Title 36, sections 305 and 2728. The director shall provide a summary of changes in ownership of forest land in the biennial report.

Sec. A-16. 12 MRSA §12506, sub-§1, as affected by PL 2003, c. 614, §9 and repealed and replaced by c. 655, Pt. B, §253 and affected by §422, is amended to read:

1. Permit required. Except as otherwise authorized pursuant to this Part and except as provided in ~~subsections 5 and subsection~~ subsection 5-A, a person may not fish for or possess the following fish using the harvesting methods listed in subsection 2 without a valid permit issued under this section:

- A. Alewives;
- B. Eels;
- C. Suckers;
- D. Lampreys; or
- E. Yellow perch.

Each day a person violates this subsection, that person commits a Class E crime for which a minimum fine of

\$50 and an amount equal to twice the applicable license fee must be imposed.

Sec. A-17. 12 MRSA §12506, sub-§5, as repealed and replaced by PL 2005, c. 397, Pt. E, §8, is repealed.

Sec. A-18. 12 MRSA §12506, sub-§5-A is enacted to read:

5-A. Exception to permit requirement. Notwithstanding subsection 1:

A. A person may fish for alewives by use of a dip net or single hook and line for consumption by that person or members of that person's family, provided that the person takes or possesses no more than one bushel in any day and provided also that the alewives are not taken from any waters in which a municipality or other person has been granted exclusive rights under section 6131;

B. A person may fish for or possess alewives from inland waters if that person has been granted fishing rights under section 6131; and

C. A person may take suckers for use as bait for fishing in inland waters as provided in section 12551-A without a permit under subsection 2.

Sec. A-19. 14 MRSA §6521, first ¶ is amended to read:

Commissioners in all cases shall make and sign a written return of their proceedings, and make return thereof with their warrant to the court from which it issued. Their report may be confirmed, recommitted or set aside, and new proceedings be had as before. When ~~confirmed~~ confirmed, judgment ~~shall~~ must be entered accordingly and recorded by the clerk and by the register of deeds of the district where the estate is.

Sec. A-20. 17-A MRSA §1348-B, sub-§2, as amended by PL 2005, c. 265, §12 and c. 288, §2, is repealed and the following enacted in its place:

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the

period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. When a person fails to pay the administrative supervision fee as required under section 1348-A, subsection 1, the court may terminate the running of the period of deferment and impose sentence unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

Sec. A-21. 20-A MRSA §1305-A, first ¶, as enacted by PL 1999, c. 710, §5, is amended to read:

Notwithstanding section 1302, 1305, 1306, 1307 or ~~15617~~ 15693, after January 31, 2001, the format of the annual budget of a school administrative district may be changed only in accordance with this section and section 1305-B.

Sec. A-22. 20-A MRSA §1305-B, first ¶, as enacted by PL 1999, c. 710, §5, is amended to read:

Notwithstanding sections 1302, 1305, 1306, 1307 and ~~15617~~ 15693, after January 31, 2001, the procedure for approval of the annual budget of a school administrative district provided under sections 1304 and 1305 may be changed only in accordance with this section and section 1305-A. The budget validation referendum process provided in this section may not be adopted for use in a school administrative district unless the cost center summary budget format provided in section 1305-A is also adopted. A school administrative district using the alternative voting procedures established in section 1305 may reconsider that use only if as part of that reconsideration the voters adopt use of the cost center summary budget format provided in section 1305-A or the cost center summary budget format and the budget validation referendum process provided in this section.

Sec. A-23. 20-A MRSA §1403, sub-§16, as amended by PL 1983, c. 364, §1, is further amended to read:

16. General purpose aid. When a school administrative district dissolves, the general purpose aid for the individual municipalities ~~shall~~ must be computed in accordance with chapter ~~605~~ 606-B.

Sec. A-24. 20-A MRSA §6051, sub-§1, ¶E, as amended by PL 2001, c. 344, §7, is further amended to read:

E. A determination as to whether the school administrative unit has complied with applicable

provisions of the ~~School Finance Act of 1985 and the School Finance Act of 1995~~ Essential Programs and Services Funding Act; and

Sec. A-25. 20-A MRSA §6051, sub-§4, ¶E, as enacted by PL 2001, c. 344, §8, is amended to read:

E. A written determination as to whether the school administrative unit has complied with applicable provisions of the ~~School Finance Act of 1985 and the School Finance Act of 1995~~ Essential Programs and Services Funding Act.

Sec. A-26. 20-A MRSA §6651, sub-§6, as enacted by PL 1989, c. 414, §17, is amended to read:

6. Subsidizable cost of operating programs in private secondary schools. The cost of salaries and educational materials attributable to the child care services ~~shall~~ must be calculated on a per-child basis. One hundred percent of the cost per child times the number of children whose parents attend school in the private school ~~shall~~ must be subsidizable as program costs under the ~~School Finance Act of 1985~~ Essential Programs and Services Funding Act if these costs are paid for by the school administrative unit responsible for educating the student parents.

Sec. A-27. 20-A MRSA §9703, sub-§5, as amended by PL 1989, c. 911, §2, is further amended to read:

5. Line-item budget. A line-item budget submitted no later than 90 days prior to the fiscal year in which the program will operate. The proposed budget request may not exceed, on a per student basis, the state average tuition rate for a total of 12 students as provided in sections 5804, 5805 and ~~45642~~ 15689.

Sec. A-28. 20-A MRSA §9706, as corrected by RR 1993, c. 1, §50, is amended to read:

§9706. Rule-making authority

The commissioner shall adopt rules to implement this chapter and the funding scheme under the ~~School Finance Act of 1985~~ Essential Programs and Services Funding Act.

Sec. A-29. 20-A MRSA §12733, as repealed and replaced by PL 2005, c. 178, §4 and amended by c. 294, §21, is repealed and the following enacted in its place:

§12733. Activities

To assist the State in increasing higher education attainment and developing a skilled workforce, the program shall provide career and college transition services to young adults who are not currently enrolling in higher education and who could benefit from enrolling in a community college. These

services may include scholarships, internships and other work-based learning experiences; career exploration and planning; assistance in completing the community college application and financial aid processes; academic planning; and information related to continuing higher education beyond the certificate, diploma and associate degree levels, consistent with the student's educational and career objectives. These services must be provided either directly by the program or through referrals to other programs and services available within the Maine Community College System or by other education and service providers. To participate in any of these services, young adults must be enrolled in a public secondary school or a state community college or have recently completed a public secondary education program. The program shall provide those activities and services that best serve the goals of the program as defined in this chapter and the needs of students and the State and that are consistent with the Maine Community College System's goals and resources.

Sec. A-30. 20-A MRSA §13506, sub-§3-A, ¶B, as corrected by RR 1993, c. 1, §51, is amended to read:

B. The impact on local communities of the ~~School Finance Act of 1985~~ Essential Programs and Services Funding Act and of implementing increased curriculum and graduation requirements, including recommended ways to meet increased local needs. The commissioner shall estimate projected local costs, including catastrophic costs, and propose alternative methods for meeting those costs, including recommendations for additional state funding of education costs; and

Sec. A-31. 21-A MRSA §191, sub-§4, as enacted by PL 2005, c. 364, §6, is repealed.

Sec. A-32. 21-A MRSA §191, as amended by PL 2005, c. 364, §6 and c. 453, §40, is further amended by adding a new paragraph before the last paragraph to read:

For the purposes of generating an incoming voting list, the central voter registration system must be capable of being sorted so that the Address Confidentiality Program voter codes and the address assigned each voter by the program appear at the end of the alphabetized list and are printed on a separate page of the list.

Sec. A-33. 22 MRSA §661, as amended by PL 2005, c. 254, Pt. B, §2, is further amended to read:

§661. Public policy

In the interests of the public health and welfare of the people of this State, it is the declared public

policy of this State that a facility licensed by the United States Nuclear Regulatory Commission and situated in the State must be accomplished in a manner consistent with protection of the public health and safety and in compliance with the environmental protection policies of this State. It is the purpose of this chapter, in conjunction with sections 671 to 690; Title 25, sections 51 and 52; and Title 35-A, sections ~~4331~~ 4351 to 4393, to exercise the jurisdiction of the State to the maximum extent permitted by the United States Constitution and federal law. Nothing in this chapter may be construed as an attempt by the State to regulate radiological health and safety reserved to the Federal Government by reason of the United States Atomic Energy Act of 1954, as amended.

Sec. A-34. 22 MRSA §3174-T, sub-§11, as repealed and replaced by PL 1999, c. 522, §1 and affected by §2, is amended to read:

11. Cub Care drug rebate program. Effective October 1, 1999, the department shall enter into a drug rebate agreement with each manufacturer of prescription drugs that results in a rebate equal to that which would be achieved under the federal Social Security Act, Section 1927. ~~These rebate agreements do not include the additional 6 percentage points required under section 3174-R.~~

Sec. A-35. 22 MRSA §3174-KK, sub-§3, as reallocated by RR 2005, c. 1, §7, is amended to read:

3. Fund purposes. Allocations from the fund must prevent any loss of services or increased cost of services to a MaineCare member or a person receiving benefits under the elderly low-cost drug program under section ~~254~~ 254-D that would otherwise result from insufficient General Fund appropriations, insufficient federal matching funds or any other shortage of funds, changes in federal or state law, rule or policy or the implementation of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Sec. A-36. 22 MRSA §4038-C, sub-§10, as enacted by PL 2005, c. 372, §6, is amended to read:

10. Limitation. The District Court does not have authority to provide a guardianship subsidy for permanency guardianship under section ~~4308-D~~ 4038-D.

Sec. A-37. 23 MRSA c. 19, sub-c. 5-A, as amended, is further amended by repealing the subchapter headnote.

Sec. A-38. 24 MRSA §2332-A, sub-§2, as amended by PL 1997, c. 777, Pt. B, §1, is further amended to read:

2. Medicaid and Cub Care programs. Non-profit service organizations may not consider the availability or eligibility for medical assistance under 42 United States Code, Section 13969, referred to as "Medicaid," or Title 22, section ~~3174-R~~ 3174-T, referred to as the "Cub Care program," when considering coverage eligibility or benefit calculations for subscribers and covered family members.

A. To the extent that payment for coverage expenses has been made under the Medicaid program or the Cub Care program for health care items or services furnished to an individual, the State is considered to have acquired the rights of the covered subscriber or family member to payment by the nonprofit service organization for those health care items or services. Upon presentation of proof that the Medicaid program or the Cub Care program has paid for covered items or services, the nonprofit service organization shall make payment to the Medicaid program or the Cub Care program according to the coverage provided in the contract or certificate.

B. A nonprofit service organization may not impose requirements on a state agency that has been assigned the rights of an individual eligible for Medicaid or Cub Care coverage and covered by a subscriber contract that are different from requirements applicable to an agent or assignee of any other covered individual.

Sec. A-39. 24-A MRSA §2744, as amended by PL 2005, c. 121, Pt. I, §§1 and 2 and c. 213, §1 and affected by §3 and amended by c. 214, §1 and affected by §3, is repealed and the following enacted in its place:

§2744. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services that are within the lawful scope of practice of a professional listed in subsection 2-A, any person covered by the policy is entitled to reimbursement for these services if the services are performed by a physician or a professional listed in subsection 2-A. Payment or reimbursement for services rendered by a professional listed in subsection 2-A, paragraph B, C, D, E or F may not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except when diagnosis of the condition for which the services are rendered is beyond the scope of their licensure.

2. Nothing in subsection 1 may be construed to require a health insurance policy subject to this chapter to provide for reimbursement of services that

are within the lawful scope of practice of a professional listed in subsection 2-A.

2-A. Subsections 1 and 2 apply with respect to the following types of professionals:

A. A psychologist licensed to practice in this State;

B. A certified social worker licensed for the independent practice of social work in this State;

C. A licensed clinical professional counselor licensed for the independent practice of counseling in this State;

D. A licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing;

E. A marriage and family therapist licensed as a marriage and family therapist in this State; and

F. A licensed pastoral counselor licensed as a pastoral counselor in this State.

3. Mental health services provided by counseling professionals. Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors, pastoral counselors and marriage and family therapists licensed in this State, an insurer that issues individual health care contracts providing coverage for mental health services shall offer coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a master's degree in counseling or a related field from an accredited educational institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all contracts executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 1997. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. A-40. 24-A MRSA §2835, as amended by PL 2005, c. 121, Pt. I, §§3 to 5 and c. 213, §2 and affected by §3 and amended by c. 214, §1 and affected by §3, is repealed and the following enacted in its place:

§2835. Mental health services

1. Notwithstanding any provision of a health insurance policy or certificate issued under a group policy subject to this chapter, whenever the policy provides for payment or reimbursement for services that are within the lawful scope of practice of a professional listed in subsection 2-A, any person covered by the policy is entitled to reimbursement for these services if the services are performed by a physician or a professional listed in subsection 2-A. Payment or reimbursement for services rendered by a professional listed in subsection 2-A, paragraph B, C, D, E or F may not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except when diagnosis of the condition for which the services are rendered is beyond the scope of their licensure.

2. Nothing in subsection 1 may be construed to require a health insurance policy subject to this chapter to provide for reimbursement of services that are within the lawful scope of practice of a professional listed in subsection 2-A.

2-A. Subsections 1 and 2 apply with respect to the following types of professionals:

A. A psychologist licensed to practice in this State;

B. A certified social worker licensed for the independent practice of social work in this State;

C. A licensed clinical professional counselor licensed for the independent practice of counseling in this State;

D. A licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing;

E. A marriage and family therapist licensed as a marriage and family therapist in this State; and

F. A licensed pastoral counselor licensed as a pastoral counselor in this State.

3. Mental health services provided by counseling professionals. Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors, pastoral counselors and marriage and family therapists licensed in this State, an insurer that issues group health care contracts providing coverage for mental health services shall make available coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a master's degree in counseling or a related field from an accredited educational

institution and has been employed as a counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this section may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract. This subsection applies to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this subsection, all contracts are deemed renewed no later than the next yearly anniversary of the contract date.

Sec. A-41. 24-A MRSA §2844, sub-§2, as amended by PL 1997, c. 777, Pt. B, §3, is further amended to read:

2. Medicaid and Cub Care programs. Insurers may not consider the availability or eligibility for medical assistance under 42 United States Code, Section 13969, referred to as "Medicaid," or Title 22, section ~~3174-R~~ 3174-T, referred to as the "Cub Care program," when considering coverage eligibility or benefit calculations for insureds and covered family members.

A. To the extent that payment for coverage expenses has been made under the Medicaid program or the Cub Care program for health care items or services furnished to an individual, the State is considered to have acquired the rights of the insured or family member to payment by the insurer for those health care items or services. Upon presentation of proof that the Medicaid program or the Cub Care program has paid for covered items or services, the insurer shall make payment to the Medicaid program or the Cub Care program according to the coverage provided in the contract or certificate.

B. An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for Medicaid or Cub Care coverage and covered by a subscriber contract that are different from requirements applicable to an agent or assignee of any other covered individual.

Sec. A-42. 24-A MRSA §2849-B, sub-§3, ¶C-1, as enacted by PL 1997, c. 777, Pt. B, §6, is amended to read:

C-1. That person was covered by the Cub Care program under Title 22, section ~~3174-R~~ 3174-T, and the request for replacement coverage is made while coverage is in effect or within 30 days from the termination of coverage; or

Sec. A-43. 24-A MRSA §6913, sub-§3, ¶E, as enacted by PL 2005, c. 400, Pt. A, §11, is amended to read:

E. Savings offset payments may not begin until 12 months after Dirigo Health begins providing health insurance coverage;

Sec. A-44. 24-A MRSA §6913, sub-§3, ¶G, as enacted by PL 2005, c. 400, Pt. A, §11, is amended to read:

G. Savings offset payments received by Dirigo Health must be pooled with other revenues of the agency in the Dirigo Health Fund established in section 6915; ~~and.~~

Sec. A-45. 27 MRSA §69, sub-§3, as enacted by PL 1977, c. 546, §1, is amended to read:

3. Surplus. The State Librarian may sell copies of each history that are not distributed under subsection 2. The State Librarian shall fix the price of sale at the retail price of the history. The Maine State Museum may sell these copies through its museum sales program, provided except that the proceeds from the sale of these town histories ~~shall may~~ not be used as required under section 89, ~~and the complimentary publications required by that section shall not be required 89-A.~~ All proceeds from the sales of these town histories ~~shall must~~ be used to pay the costs of the distribution required under subsection 2, and any proceeds beyond these costs ~~shall must~~ be used to meet the costs of purchase under subsection 1.

Sec. A-46. 28-A MRSA §1361, sub-§4, as amended by PL 1997, c. 373, §116, is further amended to read:

4. No sales of malt liquor or wine to person without wholesale license. No certificate of approval holder, except a small Maine brewery or ~~Maine~~ farm winery licensee allowed to sell directly to retailers, may sell or cause to be transported into the State any malt liquor or wine to any person to whom a Maine wholesale license has not been issued by the bureau. Malt liquor or wine must be delivered to the place of business of the wholesaler as shown in the wholesaler's license, must be unloaded and inventoried at the wholesaler's premises upon the wholesaler's receipt of the shipment and must come to rest before delivery is made to any retailer to enable the bureau to inspect and inventory wholesale warehouses for the purpose of verifying taxes that are required to be paid on malt liquor and wine purchased by importers.

Sec. A-47. 29-A MRSA §523, sub-§5, ¶Q, as amended by PL 2005, c. 420, §1 and c. 433, §8 and affected by §28, is repealed and the following enacted in its place:

Q. Kosovo Service Medal;

Sec. A-48. 29-A MRSA §523, sub-§5, ¶R, as enacted by PL 2005, c. 420, §2 and c. 433, §9 and

affected by §28, is repealed and the following enacted in its place:

R. Korea Defense Service Medal;

Sec. A-49. 29-A MRSA §752-A, as enacted by PL 2005, c. 433, §11 and affected by §28, is repealed and the following enacted in its place:

§752-A. Exempted odometer information

A vehicle's odometer reading is not required to be disclosed on transfers of the following vehicles:

1. Not self-propelled. A vehicle that is not self-propelled; or

2. Ten years old. A vehicle that is 10 years old or older.

Notwithstanding any other provisions of this Title, the Secretary of State may require odometer information for any vehicle, as set forth in section 752, upon showing by records or other sufficient evidence that vehicle mileage discrepancies exist.

Sec. A-50. 30-A MRSA §66-A, sub-§2, ¶C, as enacted by PL 2003, c. 291, §2, is amended to read:

C. Commissioner District Number 3, in the County of Aroostook, consists of the minor civil divisions of Allagash, Caswell, Cyr Plantation, Eagle Lake, Fort Kent, Frenchville, Grand Isle, Hamlin, Limestone, Madawaska, Nashville Plantation, New Canada, New Sweden, Perham, Portage Lake, St. Agatha, St. Francis, St. John Plantation, Stockholm, Van Buren, Wade, Wal-lag-rass, Westmanland, Winterville Plantation and Woodland and the unorganized territories of Connor and Square Lake. The term of office of the county commissioner from this district expires in 2004 and every 4 years thereafter.

Sec. A-51. 30-A MRSA §3754-A, sub-§5, ¶D, as amended by PL 2005, c. 247, §2 and c. 424, §4, is repealed and the following enacted in its place:

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade;

Sec. A-52. 30-A MRSA §3755-A, sub-§3, ¶H, as amended by PL 2005, c. 247, §5 and affected by §7, is further amended to read:

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

Sec. A-53. 30-A MRSA §6006-F, sub-§3, ¶G, as amended by PL 2005, c. 386, Pt. L, §2, is further amended to read:

G. To invest as a source of revenue or security for the payment of principal and interest on gen-

eral or special obligations of the bank if the proceeds of the sale of the obligations have been deposited in the fund, or if the proceeds of the sale of the obligations are used for the purposes authorized in paragraph A and certified under subsection 5, or as a source of revenue to subsidize the school administrative unit loan payment obligations; ~~and~~

Sec. A-54. 30-A MRSA §6006-F, sub-§3, ~~¶H~~, as amended by PL 2005, c. 272, §1 and c. 386, Pt. L, §2, is repealed and the following enacted in its place:

H. To pay the costs of the bank and the Department of Education associated with the administration of the fund and projects financed by the fund, except that no more than the lesser of 2% of the aggregate of the highest fund balances in any fiscal year and 4% of the combined value of any capitalization grants provided by the United States for deposit in the fund may be used for these purposes. The Commissioner of Education is authorized to receive revenue from the fund administered by the bank. Funds provided to the Department of Education from the fund must be deposited in a nonlapsing dedicated account to be used to carry out the purposes of this section; and

Sec. A-55. 30-A MRSA §6006-F, sub-§3, ~~¶I~~, as amended by PL 2005, c. 272, §1 and repealed by c. 386, Pt. L, §3, is repealed.

Sec. A-56. 31 MRSA c. 3, as amended, is further amended by repealing the chapter headnote.

Sec. A-57. 34-B MRSA §1207, sub-§1, ~~¶H~~, as enacted by PL 2003, c. 563, §3, is amended to read:

H. The names and dates of death of individuals who died while patients at the Augusta Mental Health Institute, the Bangor Mental Health Institute, the Dorothea Dix Psychiatric Center or the Riverview Psychiatric Center may be made available to the public in accordance with rules adopted by the department. The rules must require the department to notify the public regarding the release of the information and to maintain the confidentiality of information concerning any deceased individual whose surviving relatives notify the department that they object to public disclosure. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-58. 34-B MRSA §1217, as enacted by PL 1991, c. 9, Pt. E, §18, is amended to read:

§1217. Application of consent decree

It is the intent of the Legislature that the principles of the consent decree issued on August 2, 1990 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88 as they relate to the development of a comprehensive mental health system apply to all persons with severe and prolonged mental illness. The individualized support plan process as contained in the decree in paragraphs 49 through 74, to the extent possible and within available resources, must be applicable to current and future patients of the former Bangor Mental Health Institute and the Dorothea Dix Psychiatric Center. In addition, patient assessments must be provided to Bangor Mental Health Institute and Dorothea Dix Psychiatric Center patients beginning July 1, 1991 and must be completed quarterly until individualized support plan implementation is developed.

Sec. A-59. 35-A MRSA §7104, sub-§5, as amended by PL 2005, c. 305, §1 and c. 336, §3, is repealed and the following enacted in its place:

5. Funds for Communications Equipment Fund. The commission shall annually transfer \$85,000 from a state universal service fund established pursuant to this section to the Communications Equipment Fund established under Title 26, section 1419-A.

If the Department of Labor, Bureau of Rehabilitation Services does not receive from federal or other sources funds in addition to the \$85,000 sufficient to carry out the purposes of Title 26, section 1419-A, the commission, at the request of the Department of Labor, Bureau of Rehabilitation Services, may transfer from the state universal service fund to the Communications Equipment Fund an additional \$37,500.

The commission may, upon the request of the Department of Labor, Bureau of Rehabilitation Services and after a finding that the funds are necessary and that sufficient attempts have been made by the Bureau of Rehabilitation Services to maximize federal support to support emergency alert telecommunications service, transfer up to \$60,000 in fiscal year 2005-06, up to \$90,000 in fiscal year 2006-07 and up to \$120,000 in any subsequent fiscal year from the state universal service fund established by this section to the Communications Equipment Fund established under Title 26, section 1419-A for the exclusive purpose of supporting the discount program established under Title 26, section 1419-A, subsection 6.

The commission may require contributions to the state universal service fund in an amount necessary to collect amounts transferred pursuant to this subsection.

Sec. A-60. 36 MRSA §191, sub-§2, ¶BB, as amended by PL 2005, c. 332, §7; c. 395, §1; and c.

396, §5, is repealed and the following enacted in its place:

BB. The disclosure to an authorized representative of the Department of Health and Human Services, Office of Child Care and Head Start of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q;

Sec. A-61. 36 MRSA §191, sub-§2, ¶CC, as amended by PL 2005, c. 332, §8; c. 395, §2; and c. 396, §6, is repealed and the following enacted in its place:

CC. The disclosure to an authorized representative of the Department of Professional and Financial Regulation of information necessary for the administration of Title 10, chapter 222;

Sec. A-62. 36 MRSA §191, sub-§2, ¶FF, as enacted by PL 2005, c. 332, §9, is amended to read:

FF. The disclosure to the Department of the Secretary of State, Bureau of Motor Vehicles of whether the person seeking registration of a vehicle has paid the tax imposed by Part 3 with respect to that vehicle; ~~and~~

Sec. A-63. 36 MRSA §191, sub-§2, ¶GG, as enacted by PL 2005, c. 332, §9, is amended to read:

GG. The disclosure to the Department of Inland Fisheries and Wildlife, Bureau of Administrative Services of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft;

Sec. A-64. 36 MRSA §191, sub-§2, ¶HH, as reallocated by RR 2005, c. 1, §18, is amended to read:

HH. The disclosure to an authorized representative of a municipality that has adopted a municipal property tax assistance program under chapter 907-A of information related to a claimant's receipt of benefits under chapter 907. This paragraph does not authorize the disclosure of a claimant's income. A municipality receiving information under this paragraph shall keep the information confidential; ~~and~~

Sec. A-65. 36 MRSA §1603, sub-§1, ¶A, as amended by PL 1995, c. 565, §1, is further amended to read:

A. The cost of education, as would be determined by the ~~Maine School Finance Act of 1995~~

Essential Programs and Services Funding Act if the unorganized territory were a municipality;

Sec. A-66. PL 2005, c. 12, Pt. III, §35, amending clause is amended to read:

Sec. III-35. 12 MRSA §12953, sub-§7, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §346 and affected by §422, is further amended to read:

Sec. A-67. PL 2005, c. 109, §1, amending clause is amended to read:

Sec. 1. 8 MRSA §1036, sub-§2, ¶F, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. D B, §11, is amended to read:

Sec. A-68. PL 2005, c. 216, §2 is amended to read:

Sec. 2. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 34-A, section ~~3002~~ 3001-A, the terms of members of boards of visitors appointed pursuant to Title 34-A, section ~~3002~~ 3001-A during the first year following the effective date of this Act must be staggered and be for 1, 2 or 3 years.

Sec. A-69. PL 2005, c. 216, §3 is amended to read:

Sec. 3. Application. Notwithstanding the Maine Revised Statutes, Title 34-A, section ~~3002~~ 3001-A, subsection 1, paragraph C, a current member of a board of visitors who is an employee of the Department of Corrections may continue to serve on a board until March 15, 2006 or until a new member is appointed, whichever is sooner.

Sec. A-70. PL 2005, c. 397, Pt. A, §31, amending clause is amended to read:

Sec. A-31. 30-A MRSA §4314, sub-§3, ¶E, as amended by PL 2003, c. 595, §1 and c. ~~644~~ 641, §4, is repealed and the following enacted in its place:

Sec. A-71. PL 2005, c. 397, Pt. B, §3 is amended to read:

Sec. B-3. 7 MRSA §1809, sub-§1, as repealed and replaced by PL 2001, c. 572, §38, is amended to read:

1. Permit required. The commissioner may require a person who imports animals into the State to obtain a permit before the time of entry. When a permit is required, the permit or permit number must accompany the shipment. The commissioner may refuse to grant a permit or may issue one subject to quarantine at destination if the animals do not meet importation requirements or do not comply with the inland fisheries and wildlife laws and rules adopted by

the Commissioner of Inland Fisheries and Wildlife under Title 12, chapter ~~707~~ 915, subchapter ~~7~~ 15 or Title 12, section 12102 or 12704. The commissioner may require the owner to have those animals tested or examined by a veterinarian at the owner's expense. The commissioner may release those animals from quarantine only after the commissioner is satisfied that they are not a disease threat to other animals or humans.

When an animal is brought into the State without a required permit, the commissioner or the Commissioner of Inland Fisheries and Wildlife may condemn the animal and order it euthanized without indemnity.

Sec. A-72. PL 2005, c. 401, Pt. C, §6 is amended to read:

Sec. C-6. 22 MRSA §3174-G, sub-§1-C, as enacted by PL 2001, c. 650, §3, is amended to read:

1-C. Prescription drug waiver program. Except as provided in paragraph G, the department shall apply to the federal Centers for Medicare and Medicaid Services for a waiver or amend a pending or current waiver under the Medicaid program authorizing the department to use federal matching dollars to enhance the prescription drug benefits available to persons who qualify for the elderly low-cost drug program established under section ~~254~~ 254-D. The program created pursuant to the waiver is the prescription drug waiver program, referred to in this subsection as the "program."

A. As funds permit, the department has the authority to establish income eligibility levels for the program up to and including 200% of the federal nonfarm income official poverty level, except that for individuals in households that spend at least 40% of income on unreimbursed direct medical expenses for prescription medications, the income eligibility level is increased by 25%.

B. To the extent reasonably achievable under the federal waiver process, the program must include the full range of prescription drugs provided under the Medicaid program on the effective date of this subsection and must limit copayments and cost sharing for participants. If cost sharing above the nominal cost sharing for the Medicaid program is determined to be necessary, the department may use a sliding scale to minimize the financial burden on lower-income participants.

C. Coverage under the program may not be less beneficial to persons who meet the qualifications of former section 254 than the coverage available under that section on September 30, 2001.

D. In determining enrollee benefits under the program, to the extent possible, the department shall give equitable treatment to coverage of prescription medications for cancer, Alzheimer's disease and behavioral health.

E. The department is authorized to provide funding for the program by using funds appropriated or allocated to provide prescription drugs under sections ~~254~~ 254-D and 258.

F. The department is authorized to amend the waiver or adjust program requirements as necessary to take advantage of enhanced federal matching funds that may become available.

G. If, upon thorough analysis, the department determines that a waiver under this subsection is not feasible or would not significantly benefit participants in the elderly low-cost drug program, the department may decide not to pursue the waiver. Within 30 days of a decision not to proceed with a waiver and before taking action on that decision, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and shall provide a detailed analysis of the reasons for reaching that decision.

Sec. A-73. Resolve 2005, c. 16, §2 is amended to read:

Sec. 2. Report. Resolved: That the Department of ~~Administration~~ Administrative and Financial Services, Division of Purchases shall report to the Joint Standing Committee on State and Local Government by January 15, 2006 on the information obtained pursuant to section 1.

PART B

Sec. B-1. 5 MRSA §1753, sub-§4, as enacted by PL 1993, c. 606, §2, is amended to read:

4. Owner's representative an allowable cost. For purposes of this section, the owner's representative is a subsidizable cost eligible for subsidy in accordance with Title 20-A, sections ~~15603~~ 15672 and 15901; only if the local unit pays 50% of the costs of the employment of an owner's representative.

Sec. B-2. 9-A MRSA §1-301, sub-§22-A, as enacted by PL 2005, c. 164, §1, is amended to read:

22-A. "Loan officer" means an individual who is employed or retained and supervised by a licensed supervised lender that is not a supervised financial organization, or by a ~~registered credit services organization~~ licensed loan broker, whose primary job responsibilities include direct contact with mortgage applicants and who accepts applications for and

originates, negotiates, solicits, arranges for or obtains mortgage loans. "Loan officer" does not include employees who conduct purely administrative or clerical tasks. "Loan officer" does not include a sole proprietor licensed as and acting solely as a supervised lender pursuant to section 2-302, subsection 1 or ~~registered~~ licensed as and acting solely as a ~~credit services organization~~ loan broker pursuant to section 10-201.

Sec. B-3. 9-A MRSA art. X, as amended, is further amended by repealing the headnote and enacting the following in its place:

Article X

LOAN BROKERS

Sec. B-4. 9-A MRSA §10-201, as amended by PL 2005, c. 164, §9 and c. 274, §5, is repealed and the following enacted in its place:

§10-201. Licensing and biennial relicensing

A person desiring to engage or continue in business in this State as a loan broker shall apply to the administrator for a license under this article on or before January 31st of each even-numbered year. The application must be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. At the time of application and on an ongoing basis during the term of any such license, the applicant shall apply to the administrator for registration of all loan officers employed or retained by the applicant. An application for registration as a loan officer must be filed in a manner prescribed by the administrator and include the name, address and work location of the loan officer and such additional information as is reasonably requested by the administrator. An applicant's registration of a loan officer within 90 days of the date that registration would otherwise be required does not constitute a violation of this section. A license may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant and, where applicable, its partners, officers or directors and the character and fitness of its loan officers, warrant belief that the business will be operated honestly and fairly within the purposes of this Title. The administrator may adopt rules requiring that applicants, applicants' partners, officers or directors and employees of applicants satisfy initial and continuing educational requirements. The reasonable costs of meeting such educational requirements are assessed to applicants. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The initial application for a license as a loan broker must include a fee of \$400. The biennial relicensing application must include a fee of \$200. Initial applicants and biennial relicensing applicants must pay an additional fee of up to \$20 for registration of each loan officer, up to a maximum of \$200 in total.

A licensee may conduct business only at or from a place of business for which the licensee holds a license and not under any other name than that on the license.

A licensed loan broker may conduct business only through a loan officer who possesses a current, valid registration. A loan officer must be registered at the loan officer's principal licensed work location and may then work from any licensed location of the loan broker. The registration of a loan officer is valid only when that person is employed or retained and supervised by a licensed loan broker. When a loan officer ceases to be employed by a licensed loan broker, the loan broker shall promptly notify the administrator in writing.

Sec. B-5. 9-A MRSA §10-401, first ¶, as amended by PL 2005, c. 164, §10 and c. 274, §14, is repealed and the following enacted in its place:

Any loan broker or loan officers of any loan broker that violate any provision of this Title or any rule issued by the administrator, or that through any unfair, unconscionable or deceptive practice cause actual damage to a consumer, are subject to the following:

Sec. B-6. 9-A MRSA §10-401, sub-§4, as amended by PL 2005, c. 164, §11 and c. 274, §14, is repealed and the following enacted in its place:

4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the loan broker or its loan officers in an amount determined by the court, plus costs of the action together with reasonable attorney's fees; and

Sec. B-7. 10 MRSA §9097, sub-§10, as enacted by PL 1989, c. 104, Pt. B, §9 and Pt. C, §10, is amended to read:

10. Discrimination against tenants with children prohibited. Discrimination against any tenant with children is prohibited in accordance with Title 44 5, ~~section 6027~~ chapter 337.

Sec. B-8. 14 MRSA §251, sub-§3, as amended by PL 1979, c. 663, §76, is further amended to read:

3. Trial by jury. Upon demand, the right to a speedy and public trial by an impartial jury of the county wherein the contempt was allegedly committed. This requirement ~~shall~~ may not be construed to

apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct or disobedience of any officer of the court in respect to the writs, orders or process of the court.

Sec. B-9. 19-A MRSA §1507, sub-§3, as amended by PL 1997, c. 257, §3 and affected by §6, is further amended to read:

3. Duties. The guardian ad litem has both mandatory and optional duties.

A. A guardian ad litem shall:

- (1) Interview the child face-to-face with or without another person present; and
- (3) Make a written report of investigations, findings and recommendations as ordered by the court, with copies of the report to each party and the court.

B. The court shall specify the optional duties of the guardian ad litem. The optional duties of the guardian ad litem may include:

- (1) Interviewing the parents, teachers and other people who have knowledge of the child or family;
- (2) Reviewing mental health, medical and school records of the child;
- (3) Reviewing mental health and medical records of the parents;
- (4) Having qualified people perform medical and mental evaluations of the child;
- (5) Having qualified people perform medical and mental evaluations of the parents;
- (6) Procuring counseling for the child;
- (7) Retaining an attorney to represent the guardian ad litem in the pending proceeding, with approval of the court;
- (8) Subpoenaing witnesses and documents and examining and cross-examining witnesses;
- (9) Serving as a contact person between the parents and the child; or
- (10) Other duties that the court determines necessary, including, but not limited to, filing pleadings.

If, in order to perform the duties, the guardian ~~as~~ ad litem needs information concerning the child or

parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers.

Sec. B-10. 20-A MRSA §6651, sub-§4, as amended by PL 1989, c. 414, §16, is further amended to read:

4. Cost to teachers and other employees. A school administrative unit or private school may offer school-based child care services to teachers and other employees of the unit or private school in accordance with a policy established by the local school board ~~which that~~ establishes the basis for participation. The school administrative unit or private school shall charge a fee for provision of such services ~~which is at least equal to the per child cost defined in subsection 3.~~

Sec. B-11. 20-A MRSA §11805, as amended by PL 1991, c. 824, Pt. A, §36 and repealed by c. 832, §5 and affected by §§13 and 14, is repealed.

Sec. B-12. 20-A MRSA §15901, sub-§4, as amended by PL 1999, c. 81, §6, is further amended to read:

4. School construction project. "School construction project" means:

- A. On-site additions to existing schools;
- B. New schools;
- C. The cost of land acquired in conjunction with projects otherwise defined by this subsection;
- D. The building of or acquisition of other facilities related to the operation of school administrative units;
- E. The complete restoration of existing school buildings in lieu of replacement when in the judgment of the commissioner the action is in the best interest of the State and local unit; and
- F. Off-site construction ~~may only be included within the meaning of this term~~ if, in the judgment of the commissioner, it is economically in the best interests of the State or there is no other practical way to complete a project.

"School construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section ~~15603~~ 15672, subsection ~~19-A~~ 21-B, the lease-purchase of bus garage and maintenance facilities, ~~as defined in section 15603, subsection 6-A~~ or a

permanent space lease-purchase project as defined in section 15901, subsection 4-B.

Sec. B-13. 20-A MRSA §15901, sub-§4-A, as amended by PL 1991, c. 268, §6, is further amended to read:

4-A. Small scale school construction project. "Small scale school construction project" means a project that will not be eligible for state subsidy and is limited to:

A. New buildings not exceeding 600 square feet in gross area to be utilized solely for storage or custodial work, or both; or

B. On-site additions to existing school buildings not exceeding 600 square feet in gross area.

"Small scale school construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section ~~15603~~ 15672, subsection ~~4-A~~ 21-B, or the lease-purchase of bus garage and maintenance facilities, ~~as defined in section 15603, subsection 6-A.~~

Sec. B-14. 20-A MRSA §15901, sub-§4-B, as enacted by PL 1999, c. 81, §7, is amended to read:

4-B. Permanent space lease-purchase project. "Permanent space lease-purchase project" means the lease-purchase of permanent administrative space or permanent small nonadministrative or instructional space whose costs are wholly or partially eligible as debt service costs for subsidy purposes under section ~~15603~~ 15672, subsection ~~8~~ 2-A, paragraph B, subparagraph (1) or subparagraph (3). "Permanent space lease-purchase project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section ~~15603~~ 15672, subsection ~~4-A~~ 21-B, or the lease-purchase of bus garage and maintenance facilities, ~~as defined in section 15603, subsection 6-A.~~

Sec. B-15. 20-A MRSA §15904, sub-§6, as enacted by PL 1999, c. 81, §12, is amended to read:

6. Permanent space lease-purchase projects. A permanent space lease-purchase project, as defined in section 15901, subsection 4-B, whose costs are wholly eligible as debt service costs for subsidy purposes under section ~~15603~~ 15672, subsection ~~8~~ 2-A, paragraph B must receive a favorable vote of the legislative body of the school administrative unit. A permanent space lease-purchase project whose lease-purchase costs are not eligible as debt service costs for subsidy purposes under section ~~15603~~ 15672, subsection ~~8~~ 2-A, paragraph B must receive a favorable vote of the legislative body conducted in accordance with this section, except that subsection 4 does not apply. The vote may authorize the school

board or school committee to enter into a mortgage, security interest or other encumbrance on the permanent space lease-purchase project determined to be necessary for the permanent space lease-purchase project.

Sec. B-16. 20-A MRSA §15905, sub-§7, as enacted by PL 1997, c. 397, §1, is amended to read:

7. Interest-only interim local financing. Notwithstanding any provision of law or rule to the contrary, the state board may accelerate the dates on which it grants concept approval and funding approval for a school construction project that has been placed on the special priority list of the state board on the condition that the school administrative unit provide interest-only interim local financing for the project in accordance with this subsection. The period of interest-only interim local financing must be determined by the state board at the time concept approval is granted for a project and must be based on the time difference between the date that final funding approval is expected to be granted on an accelerated basis and the date that final funding approval would have been expected to be granted in the normal course. The period of interim local financing for a project may not exceed 5 years.

Notwithstanding any provision of law or rule to the contrary, a school administrative unit, including a school administrative unit established by private and special law, authorized to issue securities for school construction purposes may issue its securities for school construction purposes on an interest-only basis during a period of interest-only interim local financing approved by the state board in accordance with this subsection. The period of interest-only interim local financing must precede, and be in addition to, the periods for interest payments and principal payments otherwise established pursuant to the school construction rules of the state board. The length of the period of interest-only interim local financing and the length of the debt service schedule otherwise established must be clearly stated on the face of the securities.

The interest-only payments made by a school administrative unit during the period of interim financing must be paid from local funds without state participation and may not be included in the unit's debt service costs for state subsidy purposes under section ~~15603~~ 15672, subsection ~~8~~ 2-A. Such interest-only payments during the period of interim local financing may not be considered debt service costs as defined in section ~~15603~~ 15672, subsection ~~8~~ 2-A, paragraph A 2-A for purposes of calculating amounts subject to the debt service limit established by this section ~~15905~~, ~~subsection 1, paragraph A.~~

The referendum question that is submitted to the voters for a project subject to interest-only interim

local financing under this subsection must include, in addition to the information required by section 15904, an informational statement that sets forth the length of the period of interest-only interim financing established by the state board, an estimate of the annual interest cost during the period of interest-only interim local financing and a statement that the interest-only payments during the period of interim local financing is not eligible for inclusion in the debt service allocation of the school administrative unit for purposes of calculating state school construction subsidy to the unit.

The maximum period that securities for a school construction project may be outstanding under any applicable statute or rule must be extended by the length of the period of interest-only interim local financing approved by the state board under this subsection.

If the voters of a school administrative unit do not vote to approve a school construction project subject to interest-only interim local financing under this subsection, the unit's school construction project remains eligible for concept and funding approval from the state board at the time that the project would be eligible for such approval without interest-only interim location funding.

Sec. B-17. 22 MRSA §2700-A, sub-§4, as amended by PL 2005, c. 589, §2, is further amended to read:

4. Fees. Beginning April 1, 2006, each manufacturer of prescription drugs that are provided to Maine residents through the MaineCare program under section 3174-G or the elderly low-cost drug program under section ~~254~~ 254-D shall pay a fee of \$1,000 per calendar year to the State. Fees collected under this subsection must be used to cover the cost of overseeing implementation of this section, including but not limited to maintaining links to publicly accessible websites to which manufacturers are posting clinical trial information under subsection 3 and other relevant sites, assessing whether and the extent to which Maine residents have been harmed by the use of a particular drug and undertaking the public education initiative under subsection 5. Revenues received under this subsection must be deposited into an Other Special Revenue Funds account to be used for the purposes of this subsection.

Sec. B-18. 22 MRSA §7703, sub-§4, ¶F, as enacted by PL 1983, c. 691, §2, is amended to read:

F. The Protection and Advocacy Agency for the Developmentally Disabled in Maine in connection with investigations conducted in accordance with Title 5, chapter 961 511. The determination of what information and records are relevant to

the investigation ~~shall~~ must be made by agreement between the department and the agency; and

Sec. B-19. 24-A MRSA §3703, sub-§5, as amended by PL 1997, c. 661, §5, is further amended to read:

5. Composition of the board. The board consists of up to 9 members. Six members must be officers, directors, employees, partners or members of policyholders who purchase workers' compensation coverage from the Maine Employers' Mutual Insurance Company. Two members must be persons who represent the public interest of the company and must be appointed by the Governor within 30 days after a new board member is authorized or a vacancy occurs, subject to review and comment by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters. The designated committee shall complete its review within 15 days of the Governor's written notice of appointment. If the designated committee fails to act within the required 15 days, then the appointees put forward by the Governor become the required board members. One member must be an at-large policyholder member elected by the board. The remaining board member is the president and chief executive officer who shall serve on the board of directors while employed as president and chief executive officer. The reduction in the number of board members from 13 to 9 must be done by attrition. The first 4 appointments to expire after September 1, 1998 may not be filled.

A member of the board may not be a lobbyist required to be registered with the ~~Secretary of State Commission on Governmental Ethics and Election Practices~~, a service provider to the workers' compensation system or a representative of a service provider to the workers' compensation system.

Sec. B-20. 24-A MRSA §6908, sub-§12, as enacted by PL 2005, c. 400, Pt. A, §5, is reallocated to 24-A MRSA §6908, sub-§13.

Sec. B-21. 28-A MRSA §1551, sub-§3, ¶F, as amended by PL 2005, c. 377, §2, is further amended to read:

F. ~~Maine farm~~ Farm winery, includes bottling (one year).....\$50;

Sec. B-22. 28-A MRSA §2077-A, as amended by PL 1997, c. 373, §§157 and 158 and repealed by c. 501, §5, is repealed.

Sec. B-23. 29-A MRSA §2413, sub-§3, as amended by PL 2005, c. 12, Pt. JJ, §2 and c. 441, §2, is repealed and the following enacted in its place:

3. Penalties. In addition to any other penalty, the court shall suspend the driver's license of a person convicted under subsection 1 for not less than 30 days nor more than 180 days, which minimum may not be suspended. In addition to any other penalty, the court shall suspend the driver's license of a person convicted under subsection 1-A for not less than 180 days nor more than 2 years, which minimum may not be suspended. If the court fails to suspend the license, the Secretary of State shall impose the minimum period of suspension. The court shall impose a sentencing alternative that involves a fine of not less than \$575, which may not be suspended.

Sec. B-24. 30-A MRSA §5703, sub-§2, ¶B, as amended by PL 1989, c. 700, Pt. A, §129, is further amended to read:

B. For school construction projects approved by the State Board of Education after July 1, 1985, by multiplying the outstanding amount of each issue of debt incurred for school purposes by the municipality in connection with a project ~~which~~ that qualifies for state school construction subsidy under Title 20-A and the state share percentage of operating costs for that municipality as defined in Title 20-A, section ~~45609~~ 15672, subsection ~~1, paragraph A-31, subparagraph (1)~~, for the year in which the project received concept approval from the State Board of Education.

(1) The certificate of the Commissioner of Education that a project qualifies for state school construction aid and as to the state share percentage of operating costs for that municipality as defined in Title 20-A, section ~~45609~~ 15672, subsection ~~1, paragraph A, subparagraph (1)~~ 31, for the year in which the project received concept approval ~~shall be~~ is conclusive evidence of the facts stated therein.

Sec. B-25. 34-A MRSA §1402, sub-§4, ¶A, as enacted by PL 1983, c. 459, §6 and amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:

A. The commissioner shall establish and maintain suitable courses for career and technical education in the correctional facilities.

(1) The commissioner shall install equipment necessary to carry out this duty.

(2) The commissioner shall employ suitable and qualified instructors necessary to carry out this duty, subject to the approval of the ~~Associate Commissioner of the Bureau of Vocational Education~~ Department of Education.

Sec. B-26. 34-A MRSA §3001-A is enacted to read:

§3001-A. Boards of visitors

1. Appointment. The Governor shall appoint a board of 5 visitors for each correctional facility under the department, as authorized by Title 5, section 12004-I, subsection 5.

A. The terms of the members of the boards of visitors are for 3 years.

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms.

C. A member of the Legislature or an employee of the department may not serve on any board of visitors.

D. At least one member of each board must be a person licensed by this State to provide mental health services.

E. Each member of the boards of visitors must be compensated according to the provisions of Title 5, chapter 379.

F. The Governor shall appoint a chair from the membership.

2. Duties. Boards of visitors have the following duties.

A. Each board of visitors shall inspect the correctional facility to which it is assigned. Each board of visitors must be provided open access to all physical areas of the correctional facility, including access to areas housing clients. Each board of visitors must be provided the opportunity to speak to clients and to staff. Members of the board shall comply with all departmental policies and procedures and facility security practices regarding access to the correctional facility, shall adhere to all federal and state law regarding confidentiality and shall refer concerns or complaints regarding specific individuals to the chief administrative officer or advocate.

B. Each board of visitors shall review the management of the correctional facility to which it is assigned to determine whether that management is consistent with the philosophy, mission and policy goals of the department and facility. Each board of visitors shall prepare an annual report including its recommendations and shall provide copies of its report to the chief administrative officer of the facility, the commissioner and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The commissioner shall provide

copies with the department's response to the reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters within one month of receiving the annual reports.

C. Each board of visitors shall appear before the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters upon request.

D. Boards of visitors shall meet regularly and at least 4 times a year. At each meeting, a board of visitors may request and must receive information from the chief administrative officer as the board determines will assist in the review of the management of the facility. To the extent that a board of visitors is not discussing matters made confidential by federal or state law, meetings of boards are public proceedings and must be conducted in accordance with Title 1, section 403. Boards of visitors may meet jointly.

E. Each board of visitors shall share copies of that board's annual report with the other boards.

3. Visit to correctional facilities and communications with clients and staff. A member of a board of visitors may visit the correctional facility to which that board is assigned and may speak with clients and with staff. The member shall comply with all departmental policies and procedures and facility security practices regarding access to the correctional facility, shall adhere to all federal and state law regarding confidentiality and shall refer concerns or complaints regarding specific individuals to the chief administrative officer or advocate.

4. Volunteer activities. Volunteer activities of a member of a board of visitors may be proscribed by departmental policies regarding volunteer activities generally.

Sec. B-27. 34-A MRSA §3002, as amended by PL 2005, c. 488, §10, is repealed.

Sec. B-28. 34-A MRSA §11222, sub-§1-A, ¶A, as amended by PL 2005, c. 423, §14, is further amended to read:

A. If the registrant is sentenced to a wholly suspended sentence with probation or administrative release, or to a punishment alternative not involving imprisonment, the duty to register is triggered at the time the person commences ~~an~~ in actual execution of the wholly suspended sentence or at the time of sentence imposition when no punishment alternative involving imprisonment is imposed, unless the court orders a stay of execution, in which event the duty is triggered by the termination of the stay.

Sec. B-29. 34-B MRSA §1409, sub-§1, ¶C, as amended by PL 2005, c. 256, §2 and repealed by c. 457, Pt. NN, §4 and affected by §8, is repealed.

Sec. B-30. 34-B MRSA §1409, sub-§1, ¶D is enacted to read:

D. "State institution," for purposes of this section and this section only, includes the Homestead facility.

Sec. B-31. 36 MRSA §2908, as amended by PL 2005, c. 260, §1 and repealed and replaced by c. 332, §16, is repealed and the following enacted in its place:

§2908. Refund of tax in certain cases; time limit

A person who purchases and uses internal combustion engine fuel for any commercial use other than in the operation of a registered motor vehicle on the highways of this State or, except as provided in section 2910, in the operation of an aircraft and who has paid the tax imposed by this chapter on that fuel is entitled to reimbursement in the amount of the tax paid, less 1¢ per gallon, upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices or other evidence as the assessor may require. The statement must show the total amount of internal combustion engine fuel so purchased and used by that person for a commercial use other than in the operation of registered motor vehicles on the highways of this State or in the operation of aircraft.

A refund application on a form prescribed by the State Tax Assessor must be filed to claim a refund pursuant to this section. Interest must be paid at the rate determined pursuant to section 186, calculated from the date of receipt of the monthly claim, for all proper claims not paid within 30 days of receipt. Applications for refunds must be filed with the assessor within 12 months from the date of purchase.

All fuel that qualifies for a refund under this section is subject to the use tax imposed by chapter 215.

PART C

Sec. C-1. 5 MRSA §121, as amended by PL 1975, c. 771, §34, is further amended to read:

§121. Office; bond; salary; deputy; fees

The Treasurer of State shall keep ~~his~~ the office at the seat of government and give the bond required by the Constitution to the State of Maine, with 2 or more surety companies authorized to transact business ~~therein~~ in the State, as sureties, in the penal sum of not less than \$500,000. Each surety company shall give bond for only a fractional part of the total penal sum

and shall be held responsible for its proportional share of any loss.

The Treasurer of State ~~shall~~ may not receive ~~no~~ any other fee, emolument or perquisite in addition to ~~his~~ the salary.

The chief clerk in the office of the Treasurer of State ~~shall be~~ is designated as "deputy treasurer of state." In the event of a vacancy in the office of Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State until a Treasurer of State is elected by the Legislature, and the deputy treasurer shall give bond to the State, with sureties, to the satisfaction of the Governor for the faithful discharge of the trust. ~~During In the event of the absence or disability of the Treasurer of State, the deputy treasurer of state shall act as the Treasurer of State to perform the duties of the office, including the exercise of all the Treasurer of State's rights and obligations as a member or ex officio member of any governing board of directors. When a vacancy occurs, he shall give bond to the State, with sureties, to the satisfaction of the Governor, for the faithful discharge of his trust.~~

Sec. C-2. 5 MRSA §2031, sub-§1, as amended by PL 2005, c. 343, §1, is further amended to read:

1. Council established. The Pharmaceutical Cost Management Council, referred to in this chapter as "the council," is established and consists of ~~15~~ 16 voting members appointed by the Governor as follows:

A. The Commissioner of Administrative and Financial Services or the commissioner's designee;

B. The Commissioner of Health and Human Services or the commissioner's designee;

C. The Executive Director of the Workers' Compensation Board or the executive director's designee;

D. One representative of private payors who join the council;

E. ~~One member from each of Four members representing~~ the following publicly funded groups:

(1) ~~The Two members from the~~ Maine state employees health insurance program, one member representing labor and one member representing management;

(2) ~~The One member from the~~ University of Maine System; and

(3) ~~The One member from the~~ Maine Community College System;

F. The director of the Governor's Office of Health Policy and Finance or the director's designee or the director of a successor agency;

G. Two public purchasers not listed above;

H. A health care provider;

I. A clinical pharmacist; and

J. Three consumers of health care services, one of whom represents a statewide organization that advocates for enrollees in a publicly funded health program that includes comprehensive prescription drug benefits.

Representatives of municipal or county governments, the Maine Education Association's benefits trust, the Maine School Management Association's benefits trust and other public purchasers not listed in this subsection and private purchasers may be allowed to join the council as nonvoting members and to participate in savings opportunities.

Sec. C-3. 8 MRSA §300-A, sub-§1, as enacted by PL 2005, c. 304, §1, is amended to read:

1. Illegal wagering on horse races. A person is liable for the damages specified in this section if that person accepts a wager ~~concerning harness racing from a person located within this State unless the person accepting the wager is licensed to do so under this chapter. and:~~

A. A license is required under this chapter to accept the wager; and

B. The person who accepts the wager is not licensed to do so under this chapter.

Sec. C-4. 10 MRSA §1415-C, sub-§6, as amended by PL 1991, c. 824, Pt. A, §14, is further amended to read:

6. Waiver application. A request for a waiver under subsection 4 must be submitted to the ~~Department of Economic and Community Development~~ commission in writing and must contain the location of the renovation, the intended use of the building and the names of the owner, designer and contractor or builder. If applying for a waiver under the historic preservation provisions of subsection 4, information on the historic character of the building must be provided to the ~~commissioner~~ commission. If applying for a waiver under the economic hardship provisions of subsection 4, information on the economic infeasibility must be provided to the ~~commissioner~~ commission.

Sec. C-5. 18-A MRSA §3-108, as repealed and replaced by PL 1983, c. 256, is amended to read:

§3-108. Probate, testacy and appointment proceedings; ultimate time limit

(a) For ~~decedent's~~ a decedent dying on or after January 1, 1981, no informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than 3 years after the decedent's death, except:

(1) If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed, at any time within 3 years after the conservator becomes able to establish the death of the protected person; and

(3) A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful; may be commenced within the later of 12 months from the informal probate or 3 years from the decedent's death. ~~These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this code which relate to the date of death.~~

These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of other limitations provisions of this Code that relate to the date of death.

(b) For ~~decedent's~~ a decedent dying before January 1, 1981, no informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which

there has been a prior appointment, may be commenced more than 20 years after the decedent's death, except:

(1) If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed at any time within the applicable limitation period, as set forth in this section, which shall begin to run after the conservator becomes able to establish the death of the protected person; and

(3) A proceeding to contest an informally probated will; and to secure appointment of the person with legal priority for appointment in the event the contest is successful; may be commenced within the later of 12 months from the informal probate or the running of the applicable limitation period. ~~These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of the limitations provisions of this Code which relate to the date of death.~~

These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of the limitations provisions of this Code that relate to the date of death.

Sec. C-6. 18-A MRSA §3-703, sub-§(a), as amended by PL 1997, c. 73, §§1 and 2 and affected by §4, is further amended to read:

(a) A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this Code, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred upon the personal representative by this Code, the terms of the will, if any, and any

order in proceedings to which the personal representative is party for the best interests of successors to the estate. A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described in ~~section 7-302~~ Title 18-B, sections 802, 803, 805, 806 and 807 and Title 18-B, chapter 9, except as follows.

(1) A personal representative, in developing an investment strategy, shall take into account the expected duration of the period reasonably required to effect distribution of the estate's assets.

(2) Except as provided in section 3-906, subsection (a), paragraphs (1) and (2), a personal representative may make distribution of an estate's assets in cash or in kind, in accordance with the devisees' best interests, and is not required either to liquidate the estate's assets or to preserve them for distribution.

(3) If all devisees whose devises are to be funded from the residue of an estate agree, in a written instrument signed by each of them and presented to the personal representative, on an investment manager to direct the investment of the estate's residuary assets, the personal representative may, but need not, rely on the investment advice of the investment manager so identified or delegate the investment management of the estate's residuary assets to such manager and, in either case, may pay reasonable compensation to the manager from the residue of the estate. A personal representative who relies on the advice of, or delegates management discretion to, an investment manager in accordance with the terms of this section is not liable for the investment performance of the assets invested in the discretion of, or in accordance with the advice of, such investment manager.

Sec. C-7. 18-B MRSA §105, sub-§3, as enacted by PL 2005, c. 184, §6, is amended to read:

3. Waiver or modification. The settlor, in the trust instrument or in another writing delivered to the trustee, may waive or modify the duties of a trustee under section 813, subsection 1 or 2 to give notice, information and reports to qualified beneficiaries ~~by in either or both of the following ways:~~

A. Waiving or modifying such duties as to all qualified beneficiaries except the settlor's surviving spouse during the lifetime of the settlor or the lifetime of the settlor's surviving spouse; and

B. Designating a person or persons, any of whom may or may not be a beneficiary, to act in good faith to protect the interests of the qualified beneficiaries who are not receiving notice, information or reports and to receive any notice,

information or reports required under section 813, subsection 1 or 2 in lieu of providing such notice, information or reports to the qualified beneficiaries. The person or persons designated under this paragraph are deemed to be representatives of the qualified beneficiaries not receiving notice, information or reports for the purposes of the time limitation for a beneficiary to commence an action against the trustee for breach of trust as provided in section 1005, subsection 1.

Sec. C-8. 30-A MRSA §2652, sub-§1, ¶¶C and D, as amended by PL 1993, c. 405, §1, are further amended to read:

C. Affidavit establishing or correcting a record of birth, marriage or death as provided by Title 22, sections 2705 and 2764, §4;

(1) Issuance of a copy of the record to the applicant, ~~\$7~~ \$10 for the first copy and ~~\$3~~ \$5 for each additional copy;

D. Affidavit legitimating a birth as provided by Title 22, section 2765, §4;

(1) Issuance of a copy of the amended birth record to the applicant, ~~\$7~~ \$10 for the first copy and ~~\$3~~ \$5 for each additional copy;

Sec. C-9. 32 MRSA §82, sub-§1, as amended by PL 1995, c. 161, §1-A, is further amended to read:

1. Licenses required. An ambulance service, ambulance, nontransporting emergency medical service or emergency medical services person may not operate or practice unless duly licensed by the Emergency Medical Services' Board pursuant to this chapter, except as stated in subsection 2.

~~An ambulance, ambulance service, nontransporting emergency medical service or emergency medical services person that fails to obtain licensure is subject to a fine of not more than \$500 or imprisonment for not more than 6 months, unless other penalties are specified.~~

Sec. C-10. 32 MRSA §82, sub-§3 is enacted to read:

3. Violation. An ambulance, ambulance service, nontransporting emergency medical service or emergency medical services person that fails to obtain licensure under subsection 1 commits a Class E crime, unless other penalties are specified.

Sec. C-11. PL 2005, c. 519, Pt. GGG, §1 is amended to read:

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

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Purchased Social Services 0228

Initiative: Appropriates funds for grants to ~~build new~~ newly built or to be built hospices ~~and to establish new hospice services to support in-patient hospice facilities.~~ These funds must be awarded ~~through a competitive bidding process, the funds being awarded equally among the following 2 areas of the State: Lewiston and Auburn; and Scarborough and South Portland to Hospice of Southern Maine located in Portland and Androscoggin Home Care and Hospice located in Lewiston.~~ Grantees must ~~have plans submitted~~ submit their detailed plans to the Department of Health and Human Services by July 1, 2006 to qualify for these grants. The plans must include but are not restricted to a description of the business relationship between the grantee and other for-profit or nonprofit organizations, the construction plan of the facility built or to be built, the expected cost of the facility, the number of people to be employed at the facility and the services to be offered from the facility.

GENERAL FUND	2005-06	2006-07
All Other	\$0	\$250,000
GENERAL FUND TOTAL	\$0	\$250,000

Sec. C-12. PL 2005, c. 519, Pt. GGG, §2 is enacted to read:

Sec. GGG-2. Report. The Department of Health and Human Services must submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than January 15, 2007 identifying how the grant funds awarded under section 1 were utilized by the grantees.

Sec. C-13. PL 2005, c. 519, Pt. UUU, §2 is amended to read:

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

EDUCATION, DEPARTMENT OF

Education in the Unorganized Territory 0220

Initiative: Provides for a one-time deappropriation of funds to the Education in the Unorganized Territory program in fiscal year 2005-06.

GENERAL FUND	2005-06	2006-07
All Other Personal Services	(\$400,000)	\$0
GENERAL FUND TOTAL	(\$400,000)	\$0

Sec. C-14. Resolve 2005, c. 183, §1, sub-§§23 and 24 are amended to read:

23. Language is added regarding the verification of habitat value for shorebird nesting, feeding and staging areas that provides that:

A. An individual may voluntarily submit documentation to the Department of Environmental Protection or the Department of Inland Fisheries and Wildlife regarding the value of a shorebird nesting, feeding or staging area;

B. Documentation must be completed by an individual who has experience and training in either wetland ecology or wildlife ecology, and therefore has qualifications sufficient to identify and document a high- or moderate-value shorebird nesting, feeding or staging area, or the documentation must be field-verified by the Department of Inland Fisheries and Wildlife;

C. Following review of the documentation, the Department of Inland Fisheries and Wildlife may modify the boundary of a high- or moderate-value shorebird nesting, feeding or staging area depicted on the applicable geographic information system data layer; and

D. A landowner will receive written confirmation of the documentation from the Department of Environmental Protection; ~~and~~

24. The section regarding department determinations of shorebird nesting, feeding and staging areas in the provisionally adopted rule is deleted and replaced with a provision that provides that if, upon request from a landowner, the Department of Environmental Protection staff provides a written field determination or advisory opinion regarding the presence or absence of a high- or moderate-value shorebird nesting, feeding or staging area, a landowner acting on that determination or advisory opinion by carrying out an activity subsequently found to be in violation is not required to obtain a permit for that activity and will not be subject to enforcement action if jurisdiction or a penalty would be based solely on that activity; and ~~be it further~~

Sec. C-15. Resolve 2005, c. 183, §1, sub-§25 is enacted to read:

25. Language is amended to provide that one of the criteria for determining whether a shorebird feeding or staging site qualifies as significant shorebird habitat is that the mean number of shorebirds for a single species since 1987 at a site is 10% or more of the overall or total mean number observed of that species in the encompassing shorebird survey unit; and be it further

Sec. C-16. Retroactivity. Those sections of this Part that amend Resolve 2005, chapter 183, section 1 apply retroactively to April 12, 2006.

PART D

Sec. D-1. 25 MRSA §1534, as enacted by PL 2005, c. 519, Pt. OO, §1, is amended to read:

§1534. Consolidated Emergency Communications Fund

The Consolidated Emergency Communications Fund is created as an enterprise fund for the deposit of any payments made by municipal, county and state governmental entities ~~in Kennebec County~~. The fund may not lapse but must be carried forward to carry out the purposes of this chapter.

Sec. D-2. PL 2005, c. 519, Pt. OO, §§2 and 3 are amended to read:

Sec. OO-2. Transfer budget and positions. Notwithstanding any other provision of law, the State Budget Officer at the request of the Commissioner of Public Safety and the Maine Communications System Policy Board may transfer position counts and available balances by financial order to the Consolidated Emergency Services Communication Communications Bureau within the Department of Public Safety. These transfers are considered adjustments to authorized position counts, appropriations and allocations in fiscal year 2006-07. The State Budget Officer shall provide the Joint Standing Committee on Appropriations and Financial Affairs a report of the transferred amounts no later than September 1, 2006.

Sec. OO-3. Establish positions. Notwithstanding any other provision of law, the Consolidated Emergency Services Communication Communications Bureau within the Department of Public Safety may establish positions by financial order when municipal, county and state governmental entities ~~in Kennebec County~~ voluntarily consolidate communications systems with the bureau's communications systems. The financial order must identify the entity entering the consolidation and the position or positions being eliminated by that entity. In order for a position that is established by financial order to become permanent, it must be presented to the next session of the Legislature through the normal budgetary process. These positions must be funded by the entity and reimbursement funds for Personal Services, All Other and Capital Expenditures must be made to the Consolidated Emergency Communications Fund established in the Maine Revised Statutes, Title 25, section 1534.

Sec. D-3. Retroactivity. This Part applies retroactively to March 29, 2006.

PART E

Sec. E-1. 20-A MRSA §13101, sub-§2, as enacted by PL 2005, c. 457, Pt. GG, §1, is amended to read:

2. Appointments. The Governor shall appoint the ~~22~~ 23 members of the board specified in subsection 1, paragraphs A to M from nominations submitted by the education profession and interested persons. Members representing practitioner groups must be active practitioners and are appointed from a list of nominees presented by the largest organization in the State representing education paraprofessionals, elementary and secondary teachers, university faculty and each administrator specialty.

PART F

Sec. F-1. 12 MRSA §6173-A is enacted to read:

§6173-A. Maine Working Waterfront Access Pilot Program; confidentiality for proprietary information

Except as provided in subsections 1 and 2, information obtained by the department under this section is a public record as provided by Title 1, chapter 13, subchapter 1.

1. Confidential information. Information submitted to the department under the provisions of the Maine Working Waterfront Access Pilot Program established by Public Law 2005, chapter 462 may be designated by the submitter as proprietary information and as being only for the confidential use of the department, its agents and employees, other agencies of State Government, as authorized by the Governor, and the Attorney General. The designation must be clearly indicated on each page or other unit of information. The commissioner shall establish procedures to ensure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the submitter and the general nature of the information. Upon a request for information the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is proprietary information. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for all or any part of the designated information requested and within 15 days shall give written notice of the decision to the

submitter and the person requesting the designated information. A person aggrieved by a decision of the department under this subsection may appeal to the Superior Court.

2. Release information. The commissioner may not release information designated under subsection 1 prior to the expiration of the time allowed for the filing of an appeal or to the rendering of the decision on any appeal.

3. Nonconfidential information. Any information that is collected by any other local, state or federal agency or information required by the department for the purpose of obtaining a permit, license, certification or other approval may not be designated or treated as confidential information under subsection 1.

4. Definition. For the purposes of this section, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

PART G

Sec. G-1. 22 MRSA §1580-A, sub-§7, as amended by PL 2005, c. 581, §2, is further amended to read:

7. Application. This section does not apply to a business facility that is a veterans' service organization chartered under 36 United States Code, Subtitle II, Part B (2004) that is not open to the public or to any other club that was not open to the public and that was in operation prior to January 1, 2004, if policies concerning smoking have been mutually agreed upon by the employer and all the employees and the veterans' service organization or the club:

A. Has written procedures ensuring that only the employer and employees, members and invited guests accompanied by a member are allowed entry to the premises; and

B. Demonstrates by a written secret ballot vote taken at least once every 3 years that a majority of the members have voted to allow smoking. The date of the vote must be announced to all members at least 14 days prior to the vote. All ballots cast in the vote must be kept on file for at least 3 years and made available to the Bureau of Health upon request.

This subsection is repealed ~~August~~ September 1, 2008.

Sec. G-2. 22 MRSA §1580-A, sub-§9, as enacted by PL 2005, c. 581, §3, is further amended to read:

9. Exception. Beginning ~~August~~ September 1, 2006, and notwithstanding any provision to the contrary in this section, a qualifying club may allow smoking in its business facility in accordance with the following provisions.

A. Policies concerning smoking must have been mutually agreed upon by the employer and all the employees.

B. The qualifying club must have met the requirements of this paragraph.

(1) The qualifying club must have written policies allowing onto the premises only the employer and employees, members and invited guests accompanied by a member.

(2) A vote in favor of smoking has been conducted according to the following provisions:

(a) The qualifying club must provide all members notice of the date of the vote at least 30 days prior to the vote and an opportunity for an absentee ballot. Information designed to influence the vote of the member may not be provided with the notice and the absentee ballot;

(b) Members may not be subjected to undue influence regarding the vote;

(c) A majority of all valid ballots received must be in favor of smoking; and

(d) The ballot and procedures for voting and making available, collecting and counting absentee ballots must meet the requirements established by rule adopted by the Maine Center for Disease Control and Prevention.

(3) The qualifying club must have provided written notice to the Maine Center for Disease Control and Prevention of the results of the vote within 30 days of the vote.

C. The qualifying club may allow smoking under authority of this subsection for no longer than 3 years from the date of the vote.

D. The qualifying club may revote under this subsection at any time.

E. The qualifying club must have retained all ballots for at least 3 years and make them available to the Maine Center for Disease Control and Prevention upon request.

F. The Maine Center for Disease Control and Prevention shall adopt rules to implement this subsection. Rules adopted pursuant to this subparagraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. G-3. PL 2005, c. 581, §4 is amended to read:

Sec. 4. Transition. The provisions of the Maine Revised Statutes, Title 22, section 1580-A, subsection 9 apply to all votes to allow smoking in a qualifying club as defined in section 1580-A, subsection 2, paragraph C-2, except that a qualifying club that held a vote in favor of smoking under authority of Title 22, section 1580-A, subsection 7 between July 1, 2005 and ~~August~~ September 1, 2006 may allow smoking under authority of that vote until ~~August~~ September 1, 2008.

PART H

Sec. H-1. 20-A MRSA §13013-A, sub-§4 is enacted to read:

4. Expend funds. For fiscal year 2006-07 only, a school administrative unit may expend funds received through the salary supplement under subsection 1 without calling for a special meeting of the local legislative body.

Sec. H-2. 20-A MRSA §15689, sub-§7, ¶D is enacted to read:

D. For fiscal year 2006-07 only, a school administrative unit may expend any funds received through the adjustment under this section without calling for a special meeting of the local legislative body.

PART I

Sec. I-1. 30-A MRSA §706-A, sub-§4, as enacted by PL 2005, c. 2, Pt. B, §1 and affected by §§2 and 4 and c. 12, Pt. WW, §14, is amended to read:

4. Adjustment for new state funding. If the State provides net new funding to a county for existing services funded in whole or in part by the county assessment, other than required state mandate funds pursuant to section 5685 that do not displace current county assessment expenditures, the county shall lower its county assessment limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the county from the State in that fiscal year, with respect to services funded in whole or in part by the county assessment, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by one plus the growth

limitation factor described in subsection 3. If a county receives net new funds in any fiscal year for which its county assessment limit has not been adjusted as provided in this subsection, the county shall adjust its county assessment limit in the following year in an amount equal to the net new funds.

Sec. I-2. 30-A MRSA §5721-A, sub-§4, as amended by PL 2005, c. 621, §13, is further amended to read:

4. Adjustment for new state funding. If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State in that fiscal year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior fiscal year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" does not include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the Urban-Rural Initiative Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

PART J

Sec. J-1. 20-A MRSA §15905, sub-§4, as amended by PL 2005, c. 595, §1 and affected by §2, is further amended to read:

4. Rules. The state board may adopt or amend rules relating to the approval of school construction projects. Rules adopted pursuant to this subsection relating to the approval of major capital ~~secondary~~ school construction projects under this chapter are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

The state board is encouraged to review school construction rules regarding costs per square foot, consider other measures for containing building costs and report on these efforts to the joint standing

committee of the Legislature having jurisdiction over education matters during the First Regular Session of the 115th Legislature. On or before February 1, 1994 the state board shall adopt rules for approving movable equipment costs for school construction.

Sec. J-2. Effective date. This Part takes effect January 1, 2007.

PART K

Sec. K-1. Clayton Lake Township. Whenever the designation T11 R14 WELS appears or reference is made to T11 R14 WELS, that designation or reference means Clayton Lake Township.

Sec. K-2. Effective date. This Part takes effect January 1, 2007.

PART L

Sec. L-1. 21-A MRSA §809-A, sub-§1-A is enacted to read:

1-A. Prohibition not applicable. For the purpose of providing a voting system equipped for individuals with disabilities as required by section 812-A, subsection 1 and the federal Help America Vote Act of 2002, Public Law 107-252, the prohibition in subsection 1 does not apply to the connection of individual voting devices to a central server using a wired, point-to-point telephone connection that is not Internet-enabled when the central server is operated or managed by the Secretary of State.

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

PART M

Sec. M-1. 5 MRSA §1534, sub-§1, as amended by PL 2005, c. 636, Pt. A, §4, 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.

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

Effective June 2, 2006, unless otherwise indicated.

CHAPTER 684

H.P. 1507 - L.D. 2118

An Act Relating to the Handling of Firearms Confiscated by Law Enforcement Officers Pursuant to a Court Order

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

Sec. 1. 25 MRSA §2804-C, sub-§2-C is enacted to read:

2-C. Receipt of firearms; training; procedure; liability. Beginning January 1, 2008, the Maine Criminal Justice Academy shall provide training for municipal, county and state law enforcement officers regarding the proper handling, storage, safekeeping and return of firearms and firearm accessories received pursuant to a court order under Title 19-A, section 4006, subsection 2-A or Title 19-A, section 4007, subsection 1, paragraph A-1. Such training must include education concerning the prohibitions on the purchase or possession of a firearm when a protection order has been obtained and communication with parties to protection orders concerning such prohibitions.

In developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners.