

MAINE STATE LEGISLATURE

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and the following ena

nds. Except as otherwise provided in any division of the Department of Corrections, the court, who shall determine in a timely manner, shall remit the sum to the clerk of the court. At the time, the clerk shall be directed in accordance with Section 316-A; Title 7, Section 1015; Title 29-A, Section 34-A, section 12101, to be deposited by the clerk as bail deposited daily in a special deposit the funds in the court. The clerk determines when the interest accrued on the sum of bail is governed by the court.

only report with the State
of fines, surcharges and
whom each is payable.

§1057, sub-§2-A,
95, Pt. O, §1, is further

ed. A surcharge of 12 percent on any fine, forfeiture or penalty assessed by this State, which, for the purpose of collection procedures, shall be in addition to any forfeiture or penalty assessed by the State. If this surcharge must be paid to the Government Operations Office, it shall be paid to the Major Case Unit to supplement current funding for the classification of part-time and full-time officers. This subsection shall not apply when the funding for the Department's computer system is first.

1057-A, as amended by §7, is repealed.

148, sub-§1, ¶B, as amended, is repealed.

§948, sub-§1, ¶F, 4
t. EE, §1, is repealed.

§1555-B, sub-§9, is amended to read:

9. **Distribution of fines.** Fines and forfeitures collected pursuant to subchapter 1 and this subchapter must be credited as follows: one half to the General Fund and 1/2 to be deposited in a nonlapsing account to be paid to law enforcement agencies of the Maine Criminal Justice Academy for the purpose of providing funds for training and recertification of part-time and full-time law enforcement officers.

Sec. R-8. 25 MRSA §1541, sub-§6, as amended by PL 2001, c. 552, §1, is further amended to read:

6. Establishment of fees. The State Bureau of Identification may charge a fee to nongovernmental organizations individuals, governmental organizations that are engaged in licensing and governmental organizations that are not a governmental entity of the State, a county of the State or a municipality of the State for each criminal history record check requested for noncriminal justice purposes pursuant to Title 16, chapter 3, subchapter VIII. The requestor shall provide a name and date of birth for each record being requested. A request made pursuant to 5 United States Code, Section 9101 must be accompanied by fingerprints. A governmental organization that is engaged in licensing may charge an applicant for the cost of the criminal history record check. The commissioner shall establish a schedule of fees that covers the cost of providing these services. Revenues generated from these fees must be credited to the General Fund and the Highway Fund in an amount consistent with currently budgeted allotments and allocations.

Sec. R-9. 34-A MRSA §1210-A, sub-§9, as enacted by PL 2001, c. 698, §5 and affected by §7, is amended to read:

9. Surcharge imposed. In addition to the ~~12%~~ ^{14%} surcharge collected pursuant to Title 4, section 1057 and the ~~2% surcharge collected pursuant to Title 4, section 1057 A~~, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is considered a part of the fine, forfeiture or penalty. Except as provided in subsection 10, all funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the County Jail Prisoner Support and Community Corrections Fund that is administered by the department. Except as provided in subsection 10, all funds collected pursuant to this subsection must be distributed to counties that have experienced at least a 10% increase in their total annual jail operating budget or to counties that have issued bonds for the construction of a new jail or renovation of an existing jail and that meet all other requirements under subsection 4. Funds distributed to counties pursuant to this subsection must be used for the sole purpose of funding costs of the support of prisoners detained or sentenced to

county jails and for establishing and maintaining community corrections.

Sec. R-10. Retroactivity. Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 4, section 116, first paragraph and section 163, subsection 1 apply retroactively to August 1, 2002.

PART 5

Sec. S-1. Transfer of funds. Notwithstanding any other provision of law, the State Controller shall transfer \$95,869 in fiscal year 2003-04 and \$53,834 in fiscal year 2004-05 in savings from the Bureau of Elections and Commissions, Administrative Services and Corporations, Other Special Revenue Funds account in the Department of the Secretary of State to the unappropriated surplus of the General Fund no later than June 30, 2004 and June 30, 2005.

Sec. S-2. Transfer of funds. Notwithstanding any other provision of law, the State Controller shall transfer \$10,000 in fiscal year 2003-04 and \$10,000 in fiscal year 2004-05 in savings from the Archives, Other Special Revenue Funds account in the Department of the Secretary of State to the unappropriated surplus of the General Fund no later than June 30, 2004 and June 30, 2005.

PART T

Sec. T-1. 4 MRSA §8-A, as enacted by PL 1981, c. 241, is amended by amending the headnote to read:

§8-A. Rules on courts records and unclaimed property

Sec. T-2. 4 MRSA §8-A, sub-§2, as enacted by PL 1981, c. 241, is amended to read:

2. Unclaimed property. To provide, after reasonable notice to interested parties or their attorneys, for the transfer to the Treasurer of State for disposition as abandoned unclaimed property in the manner provided by Title 33, sections 1357 1958 and 1358 1959 of property in the possession or custody of the courts of this State as a result of civil or criminal litigation.

Sec. T-3. 5 MRSA §135, as amended by PL 1999, c. 401, Pt. HHH, §1, is further amended to read:

§135. Deposit of state funds; limitations

The Treasurer of State may deposit the money, including trust funds of the State, in any of the national bank or in any banking institutions or institution, trust companies or company, state or federal savings and loan associations association or

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(5) The warehouseman may satisfy ~~his~~ the lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to whom ~~he~~ the warehouseman would have been bound to deliver the goods, or dispose of it according to Title 33, chapter ~~27~~ 41.

Sec. T-8. 11 MRSA §7-210, sub-§(6), as amended by PL 1979, c. 641, §4, is further amended to read:

(6) The warehouseman may satisfy ~~his~~ the lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to whom ~~he~~ the warehouseman would have been bound to deliver the goods, or dispose of it according to Title 33, chapter ~~27~~ 41.

Sec. T-9. 14 MRSA §6013, as affected by PL 1997, c. 508, Pt. A, §3 and amended by Pt. B, §3, is further amended to read:

§6013. Property unclaimed by tenant

Any property with a total value of \$500 or more that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit must be disposed of according to Title 33, chapter 41.

The landlord shall place in storage in a safe, dry, secured location any property with a total value of less than \$500 that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit. The landlord shall send written notice by first class mail with proof of mailing to the last known address of the tenant concerning the landlord's intent to dispose of the ~~abandoned unclaimed~~ property. The notice must include an itemized list of the items and containers of items of property ~~abandoned unclaimed~~. If the tenant claims the property within 14 days after the notice is sent, the landlord shall continue to store the property for at least 10 days after the tenant's response to allow the tenant time to take possession of the property. The landlord may condition the release of the property to the tenant upon the tenant's payment of all rental arrearages, damages and costs of storage. If the property remains unclaimed after the 14th day after notice has been sent or after the 10th day after the tenant claims the property, the landlord may sell the property for a reasonable fair market price and apply all proceeds to rental arrearages, damages and costs of storage and sale. All remaining balances must then be forwarded to the Treasurer of State.

Sec. T-10. 14 MRSA §6324, as affected by PL 1997, c. 508, Pt. A, §3 and amended by Pt. B, §4, is further amended to read:

§6324. Proceeds of sale

After first deducting the expenses incurred in making the sale, the mortgagee shall disburse the remaining proceeds in accordance with the provisions of the judgment. The mortgagee shall file a report of the sale and the disbursement of the proceeds therefrom with the court and shall mail a copy to the mortgagor at the mortgagor's last known address. This report need not be accepted or approved by the court, provided that the mortgagor or any other party in interest may contest the accounting by motion filed within 30 days of receipt of the report, but any such challenge may be for money only and does not affect the title to the real estate purchased by the highest bidder at the public sale. Any deficiency must be assessed against the mortgagor and an execution must be issued by the court therefor. In the event the mortgagee has been the purchaser at the public sale, any deficiency is limited to the difference between the fair market value of the premises at the time of the public sale, as established by an independent appraisal, and the sum due the mortgagee as established by the court with interest plus the expenses incurred in making the sale. Any surplus must be paid to the mortgagor, the mortgagor's successors, heirs or assigns in the proceeding. If the mortgagor has not appeared personally or by an attorney, the surplus must be paid to the clerk of courts, who shall hold the surplus in escrow for 6 months for the benefit of the mortgagor, the mortgagor's successors, heirs or assigns and, if the surplus remains unclaimed after 6 months, the clerk shall pay the surplus to the Treasurer of State to be credited to the General Fund until it becomes ~~abandoned~~ unclaimed under the Uniform Unclaimed Property Act, and report and pay it to the State in accordance with that Act.

Sec. T-11. 18 MRSA §1655, as repealed and replaced by PL 1979, c. 641, §5, is amended to read:

§1655. Distribution of balance

When there is in the hands of a public administrator an amount of money more than is necessary for the payment of the deceased's debts and for other purposes of administration, if no widow, widower or heirs of the deceased have been discovered, the administrator ~~shall~~ must be required by the judge to deposit it with the Treasurer of State, who shall receive it and dispose of it according to Title 33, chapter ~~27~~ 41.

Sec. T-12. 18-A MRSA §3-619, sub-§(e), as repealed and replaced by PL 1981, c. 268, §3, is amended to read:

(e) When there are assets, other than real property, remaining in the hands of such public administrator after the payment of the decedent's debts and all costs of administration and no heirs have been discovered, the public administrator ~~shall~~ must be

ordered by the Treasurer of State to disburse them according to the provisions of the judgment. The mortgagee shall must be presumed to be the purchaser at the public sale.

Sec. T-13. 19 MRSA §3-914.

(A) The mortgagee shall not be required to distribute the proceeds of the sale to the person's estate if the person has disposed of the property.

Sec. T-14. 19 MRSA §3-914. and replaced by PL 1997, c. 508, Pt. B, §3, is further amended to read:

§4551. 19 MRSA §3-914.

All life insurance policies owned by a person who has died shall be disposed of in accordance with the provisions of the will of the decedent.

Sec. T-15. 19 MRSA §3-914. and replaced by PL 1997, c. 508, Pt. B, §3, is further amended to read:

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Sec. T-16. 19 MRSA §3-914. and replaced by PL 1997, c. 508, Pt. B, §3, is further amended to read:

1. The State shall acquire and maintain a museum of the State's history and culture. The museum shall be located in the State House building or in a building adjacent to the State House building. The museum shall be open to the public and shall be a part of the State's cultural heritage.

2. The museum shall be a part of the State's cultural heritage and shall be a part of the State's cultural heritage. The museum shall be a part of the State's cultural heritage and shall be a part of the State's cultural heritage.

ordered by the judge to deposit them with the Treasurer of State, who shall receive them and dispose of them according to Title 33, chapter 27 41. These assets shall must, for the purposes of Title 33, chapter 27 41, be presumed abandoned unclaimed when the judge orders the public administrator to deposit them with the Treasurer of State.

Sec. T-13. 18-A MRSA §3-914, as enacted by PL 1979, c. 540, §1, is amended to read:

§3-914. Disposition of unclaimed assets

(A) If an heir, devisee or claimant ~~cannot~~ can not be found, the personal representative shall distribute the share of the missing person to his the person's conservator, if any; otherwise it shall must be disposed of according to Title 33, chapter 27 41.

Sec. T-14. 24-A MRSA §4551, as repealed and replaced by PL 1977, c. 707, §7, is amended to read:

§4551. Disposition of unclaimed funds

All unclaimed ~~moneys~~ money held and owing by any life insurer doing business in this State shall must be disposed of according to Title 33, chapter 27 41.

Sec. T-15. 25 MRSA c. 401 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 401

DISPOSAL OF UNCLAIMED, LOST OR STOLEN PERSONAL PROPERTY BY LAW ENFORCEMENT AGENCIES

Sec. T-16. 27 MRSA §601, sub-§§1 and 2, as enacted by PL 1981, c. 258, are amended to read:

1. Property to be considered abandoned. Any property held by a museum or historical society within the State ~~which that~~ is held for 25 years or more, and to which no person has made claim shall ~~be~~ is deemed to be abandoned and, notwithstanding Title 33, chapter 27 41, shall ~~become~~ becomes the property of the museum or society, provided that the museum or society has complied with subsection 2.

2. Notice. The museum or society shall first cause to be published in at least one newspaper of general circulation in the county in which the museum or society is located at least once a week for 2 consecutive weeks a notice and listing of the property. The notice shall must contain:

A. The name and last known address, if any, of the last known owner of the property;

B. A description of the property; and

C. A statement that if proof of claim is not presented by the owner to the museum or society and if the owner's right to receive the property is not established to the museum's or society's satisfaction within 65 days from the date of the 2nd published notice, the property will be deemed abandoned and shall become the property of the museum or society.

Sec. T-17. 30-A MRSA §3862, sub-§3, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106; amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Proceeds. After using the proceeds from the sale to satisfy the lien and any costs that may accrue, the keeper shall dispose of any remainder according to Title 33, chapter 27 41.

Sec. T-18. 33 MRSA §1953, sub-§1, ¶C, as amended by PL 2001, c. 439, Pt. L, §1, is further amended to read:

C. Stock or other equity interest in a business association or financial organization, including a security entitlement under Title 11, Article 8, except for property described in paragraph Q, § 3 years after the earlier of:

(1) The date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or

(2) The date of the 2nd mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

Sec. T-19. 33 MRSA §1953, sub-§1, ¶D, as enacted by PL 1997, c. 508, Pt. A, §2 and affected by §3, is amended to read:

D. A debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, § 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

Sec. T-20. 33 MRSA §1953, sub-§1, ¶E, as amended by PL 1999, c. 284, §1, is further amended to read:

E. A demand, savings or time deposit § 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property. In the case of certain types of deposits, the following rules apply:

ERRORS BILL §: SUPP-9-12

LAW AMENDED: 20-A MRSA §7209, sub-§1, ¶B-1
20-A MRSA §7209, sub-§2-A
20-A MRSA §7209, sub-§6
Effective date

General Subject: Education, Children with Disabilities, General
Administration and supervision (CDS)

Type of correction (conflict, reference, other): Re-enacts repealed
provisions; corrects cross-reference,

Category (technical, substantive): S

Is amendment to Errors Bill needed?
(If so, draft/mark up and explain below)

Prepared by: cjs

Date: 3/28/2012 10:42 AM

File name: G:\COMMITTEES\JUD\ERRORS BILL 2012\20-A 7209.doc(3/28/2012 11:13:00 AM)

EXPLANATION

Title 20A MRSA §7209, sub-§1, ¶B provided for the Department of Education to approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 in accordance with specific requirements. When enacted by PL 2005, chapter 662, the paragraph was repealed by its own terms on September 30, 2007. PL 2007, c. 307 amended the repeal date to June 30, 2008.

Public Law 2007, chapter 572 amended ¶B to remove the repealer completely. PL 2007, c. 572 was not an emergency and took effect July 18, 2008, so it was not effective, and ¶B was repealed as of June 30, 2008.

Title 20-A MRSA §7209, sub-§2 was enacted by PL 2005, c. 662 to establish a state level advisory committee for the period of July 1, 2006 to September 30, 2007. Chapter 662 included self-repealing language to repeal subsection 2 on September 30, 2007. PL 2007, c. 307 amended subsection 2 to extend the existence of the committee until June 30, 2008. It amended the repeal date to June 30, 2008.

Public Law 2007, chapter 572 amended subsection 2 to delete the limited period of the committee's existence and to delete the repealer. PL 2007, c. 572 was not an emergency and took effect July 18, 2008, so it was not effective, and subsection 2 was repealed as of June 30, 2008.

SUPP-9 re-enacts the PL 2007, c. 572 version of 20-A, §7209, sub-§1, ¶B as ¶B-1.

SUPP-10 re-enacts the PL 2007, c. 572 version of 20-A §7209, sub-§2 as sub-§2-A.

SUPP-11 corrects a cross-reference to §7209, sub-§1, ¶B to ¶B-1.

SUPP-12 makes the corrections retroactive to June 30, 2008, when the repeals of ¶B and sub-§2 took effect.

Needs approval of the Education Committee.

(2)

MZL
3.7.15

1 Sec. 9. 20-A MRSA §7209, sub-§1, ¶B-1 is enacted to read:

2 B-1. The department, in a manner consistent with the authority of the board of
3 directors of an intermediate educational unit, shall approve the annual entitlement
4 plan and the budget for an intermediate educational unit pursuant to subsection 6 only
5 in accordance with the following.

6 (1) The department shall approve the entitlement plan and the budget if the
7 provisions of the entitlement plan and the budget are in compliance with the
8 statewide standards established by the state intermediate educational unit
9 pursuant to subsection 3 for the purpose of ensuring coordinated service delivery
10 in each region of the State.

11 (2) In the event that the department determines that the provisions of the annual
12 entitlement plan and the budget presented by a board of directors of an
13 intermediate educational unit are not in compliance with the statewide standards
14 established pursuant to subsection 3, the department shall require the board of
15 directors of the intermediate educational unit to revise and resubmit the annual
16 entitlement plan and the budget in a reasonable amount of time as determined by
17 the commissioner.

18 (3) In the event the provisions of the resubmitted annual entitlement plan and the
19 budget are not in compliance with the statewide standards established pursuant to
20 subsection 3, the department is authorized to determine and approve an
21 appropriate, final annual entitlement plan and a budget for the intermediate
22 educational unit that is in compliance with the statewide standards established
23 pursuant to subsection 3.

24 Sec. 10. 20-A MRSA §7209, sub-§2-A is enacted to read:

25 2-A. State-level advisory committee. The state-level advisory committee is
26 established to advise on the provisions of this section. Members of the state-level
27 advisory committee are appointed by the commissioner and must include representatives
28 from each board of directors of a regional site described in subsection 5, the early
29 childhood education consultant and the director of early childhood special education
30 within the department.

31 Sec. 11. 20-A MRSA §7209, sub-§6, as amended by PL 2007, c. 307, §5, is
32 further amended to read:

33 **6. Regional site board of directors; annual entitlement plan; site budget**
34 **approval.** A board of directors of a regional site is entitled to receive annual grant award
35 allocations that are approved by the department in accordance with the approval
36 provisions for the annual entitlement plan and the budget for a regional site pursuant to
37 subsection 1, paragraph B B-1.

38 Sec. 12. **Retroactivity.** Those sections of this Act that enact the Maine Revised
39 Statutes, Title 20-A, section 7209, subsection 1, paragraph B-1 and Title 20-A, section
40 7209, subsection 2-A and amend Title 20-A, section 7209, subsection 6 take effect
41 retroactively to June 30, 2008.

SUMMARY

Sections 9 and 10 restore the language of provisions that were repealed by their own terms on June 30, 2008, which was before the effective date of Public Law 2007, chapter 572, which repealed the repealing language.

Section 11 corrects a cross-reference.

Section 12 makes sections 9, 10 and 11 retroactive to the date the original provisions were repealed, June 30, 2008.

County Jail Prisoner Support and Community Corrections
Fund 0888

Initiative: Deappropriates funds to achieve savings.

GENERAL FUND	2005-06	2006-07
All Other	\$0	(\$19,690)
GENERAL FUND TOTAL	\$0	(\$19,690)
CORRECTIONS, DEPARTMENT OF		
DEPARTMENT TOTALS	2005-06	2006-07
GENERAL FUND	\$0	(\$36,355)
DEPARTMENT TOTAL -		
ALL FUNDS	\$0	(\$36,355)
SECTION TOTALS	2005-06	2006-07
GENERAL FUND	\$0	\$0
SECTION TOTAL -		
ALL FUNDS	\$0	\$0

Sec. 9. Effective date. This Act takes effect January 1, 2007.

Effective January 1, 2007.

CHAPTER 662

S.P. 689-L.D. 1772

An Act To Improve Early Childhood
Special Education

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

Whereas, there is an immediate need for the Department of Education to begin implementation of the early childhood special education system, including employee salary and benefits administration, fiscal management, data management and service delivery; and

Whereas, failure to begin implementation would result in delays or possible disruption of early intervention and special education and related services to eligible children with disabilities and their families; 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. 5 MRSA §4602, sub-§2, as amended by PL 1991, c. 99, §28, is further amended to read:

2. Unlawful educational discrimination on the basis of physical or mental disability. It is unlawful educational discrimination in violation of this Act solely on the basis of physical or mental disability to:

A. Exclude from participation in, deny the benefits of or subject to discrimination under any educational program or activity any otherwise qualified individual with physical or mental disability;

B. Deny any person equal opportunity in athletic programs, provided that no educational institution may be required under this subsection to provide separate athletic programs to serve persons with physical or mental disability;

C. Deny admission to any institution or program or fail to provide equal access to and information about an institution or program through recruitment; or

D. Deny financial assistance availability and opportunity.

Nothing in this subsection may be construed to cover the rights of exceptional students children with disabilities to special education programs under state or federal law.

Sec. A-2. 5 MRSA §12004-G, sub-§8-A, as reenacted by PL 2001, c. 471, Pt. C, §1 and affected by §10, is repealed.

Sec. A-3. 5 MRSA §19508, as amended by PL 2005, c. 279, §4, is further amended to read:

§19508. Application to residents in children's homes

This chapter also applies to exceptional students children with disabilities in children's homes, emergency shelters, family foster homes, specialized children's homes and residential child care facilities, as defined in Title 22, section 8101, and to other residential educational facilities, including the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and other similar facilities.

Sec. A-4. 20-A MRSA §1, sub-§3-A is enacted to read:

3-A. Child with a disability. "Child with a disability" has the same meaning as in section 7001.

more than 3 years prior to the date the complaint is received.

Sec. A-27. 20-A MRSA §7207-A, sub-§2, as amended by PL 1989, c. 700, Pt. B, §46 and enacted by c. 857, §56 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Objection to appointments. When an exceptional student a child with a disability is a state ward and the Department of Health and Human Services has notified the school administrative unit and the Department of Education that the Department of Health and Human Services objects to the appointment of the foster parent as the surrogate parent, the foster parent may not be automatically appointed to serve as surrogate parent for the exceptional student a child with a disability. When an exceptional student a child with a disability is a state ward and the Department of Health and Human Services objects to the appointment of the foster parent as the surrogate parent, the Department of Health and Human Services shall recommend to the Department of Education an individual to serve as surrogate parent.

Sec. A-28. 20-A MRSA §7207-B, sub-§3-A, as enacted by PL 1997, c. 441, §1, is repealed.

Sec. A-29. 20-A MRSA §7207-B, sub-§4, as amended by PL 1985, c. 797, §41, is further amended to read:

4. Hearing officers, immunity. The State shall train ensure that impartial hearing officers meet the criteria contained in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended. For purposes of the Maine Tort Claims Act only, Title 14, chapter 741, hearing officers, while they are carrying out their official duties as hearing officers, shall be are considered state employees and shall be are entitled to the immunity provided state employees under the Maine Tort Claims Act.

Sec. A-30. 20-A MRSA §§7209 and 7210 are enacted to read:

§7209. General administration and supervision

1. Department of Education. The department shall serve as the lead agency for the statewide system pursuant to 20 United States Code, Section 1435, including the identification and coordination of all available resources within the State for services to eligible children from birth to under 3 years of age, and shall exercise general supervisory authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and the provision of a free, appropriate public education to children at least 3 years of age and under 6 years of age.

A. The commissioner or the commissioner's designee is responsible for developing and adopting rules necessary to carry out the provisions of the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq.

B. During the period from July 1, 2006 to September 30, 2007, the department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall only approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 in accordance with the following.

(1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

(2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educational unit to revise and resubmit the annual entitlement plan and the budget in a reasonable amount of time as determined by the commissioner.

(3) In the event the provisions of the resubmitted annual entitlement plan and the budget are not in compliance with the statewide standards established pursuant to subsection 3, the department is authorized to determine and approve an appropriate, final annual entitlement plan and a budget for the intermediate educational unit that is in compliance with the statewide standards established pursuant to subsection 3.

This paragraph is repealed September 30, 2007.

C. The commissioner or the commissioner's designee is responsible for ensuring legal and policy compliance throughout the early childhood special education program by reviewing or performing regular audits of program records.

D. The commissioner or the commissioner's designee is responsible for ensuring fiscal compliance throughout the early childhood special

(5-A)

education program by reviewing or performing regular audits of program records.

E. The department, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary responsibilities for operations at a regional site that fails to meet compliance requirements.

2. State-level advisory committee. The state-level advisory committee is established for the period from July 1, 2006 to September 30, 2007 to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early childhood education consultant and the director of early childhood special education within the department. This subsection is repealed September 30, 2007.

3. State intermediate educational unit. The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. For the period from July 1, 2006 to September 30, 2007, the state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in

accordance with standards set forth by the State Controller;

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07;

F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel; and

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act.

4. Director of early childhood special education. The commissioner shall appoint and supervise a director of early childhood special education. The director has the following powers and duties:

A. To administer the state intermediate educational unit established under subsection 3. The director shall develop operating policies and establish organizational and operational procedures that include supervision, monitoring, data and accountability structures;

B. To develop statewide policies and procedures for carrying out federal and state laws and rules relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age; and

C. To provide training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412 (a) (3), early intervention services and

the provision of a free, appropriate public education to children from birth to under 6 years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found.

5. Regional site board of directors. A board of directors of a regional site is responsible for governance of its activities, including the management and oversight of its general operations. Membership must include representatives of the regional offices of the Department of Health and Human Services, representatives of participating school administrative units, parents of children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the Child Development Services System is limited to work performed for the school administrative unit is exempt from the requirements of this subsection. Terms of membership and methods of appointment or election for each board of directors must be determined by the board of director's bylaws, subject to approval by the department.

6. Regional site board of directors; annual entitlement plan; site budget approval. A board of directors of a regional site is entitled to receive annual grant award allocations that are approved by the department in accordance with the approval provisions for the annual entitlement plan and the budget for a regional site pursuant to subsection 1, paragraph B. This subsection is repealed September 30, 2007.

7. Regional site; administration. A board of directors of a regional site shall:

A. Hire, fire and supervise the staff of the regional site according to the job classifications, pay scales and personnel policies established by the state intermediate educational unit established under subsection 3;

B. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, using forms and procedures developed by the department;

C. Ensure data entry and reporting through June 30, 2007; and

D. Provide fiscal management of money allocated to it, in compliance with federal and state laws and subject to proof of an annual audit.

8. Regional site; duties and obligations. A board of directors of a regional site shall:

A. Ensure provision of child find activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Ensure provision of childcount activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Ensure appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State;

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services, in collaboration with school administrative units when possible;

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; and

G. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine which trained and certified personnel may commit funds.

\$7210. Conflict of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, all members of the state-level advisory committee established under section 7209, subsection 2 and all employees, contractors, agents and other representatives of the state intermediate educational

unit are deemed executive employees solely for purposes of Title 5, section 18. The department shall provide training to participants to ensure compliance with conflict of interest requirements.

Sec. A-31. 20-A MRSA §7252-A, as enacted by PL 1987, c. 395, Pt. A, §76, is amended to read:

§7252-A. Early intervention; special education programs; approval

Special Early intervention and special education programs may be established for the delivery of early intervention and special education services to exceptional students children with disabilities in accordance with section 7204, subsection 4. An early intervention program may be provided by an intermediate educational unit, an approved private school or a state licensed agency. A special education program may be offered by a school administrative unit, an approved private school or a state licensed agency. All early intervention and special education programs offered by approved private schools or state licensed agencies shall must:

1. **Supervision.** Be provided under the supervision of the school administrative unit responsible for the education of the exceptional student child with a disability enrolled in the program;

2. **Description.** Be described in a master contractual agreement between the agency or private school and the commissioner; and

3. **Approval.** Be approved in advance of the enrollment of any exceptional student child with a disability.

Sec. A-32. 20-A MRSA §7252-B, as enacted by PL 1987, c. 395, Pt. A, §76, is amended to read:

§7252-B. Early intervention; special education services; approval

The commissioner shall adopt or amend rules to define allowable early intervention and special education services and the qualifications of individuals who provide early intervention or special education services. Each intermediate educational unit, approved private school or state licensed agency providing early intervention services shall submit a report at such time and in such form as the commissioner may require. Each school administrative unit, approved private school or licensed state licensed agency providing special education services shall submit a report at such time and in such form as the commissioner may require.

Sec. A-33. 20-A MRSA §7255, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§7255. Other programs

In addition to, or in place of, those methods listed in this chapter, a school administrative unit may make other provisions, subject to approval in advance by the commissioner, to ensure the education of all exceptional students children with disabilities.

Sec. A-34. 20-A MRSA §7257, as enacted by PL 1983, c. 64, is amended to read:

§7257. General supervision

All educational programs for exceptional students children with disabilities within the State, including all such programs administered by any other state or local agency, will be are under the general supervision of the commissioner.

Sec. A-35. 20-A MRSA §7302, sub-§2, as amended by PL 2005, c. 153, §6, is further amended to read:

2. **Private special education facilities; private general purpose agencies.** Private agencies that operate facilities that exclusively serve exceptional students children with disabilities and private general purpose agencies that receive state aid for special education programs shall comply with the following in computing tuition rates.

A. All tuition rates are subject to approval by the commissioner.

B. The tuition rates may not exceed the actual per student cost incurred in the operation during the preceding school year.

C. The commissioner shall adopt or amend rules to define allowable expenditures used to determine per student costs.

D. An agency shall file an annual financial report detailing the allowable expenditures and the computation of the tuition rate at such time and in the form the commissioner may require.

E. Increases in the tuition rate from one year to the next may not exceed the tuition rate established through negotiation unless evidence is presented to the commissioner that a hardship will exist if a higher rate of increase is not approved, and this evidence is determined sufficient by the commissioner.

F. The commissioner shall establish a tuition rate for new special education programs in special purpose private schools and private general purpose agencies based on the estimated allowable costs of these schools.

trucks or truck tractors, each connected by a saddle to the frame or 5th wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or 5th wheel of the vehicle in front of it. The drive-away saddlemount vehicle transporter combination may include one fullmount, which consists of a smaller vehicle mounted completely on the frame of either the first or the last vehicle in the drive-away saddlemount vehicle transporter combination.

Sec. 6. 29-A MRSA §101, sub-§64, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 7. 29-A MRSA §954, sub-§5, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A transporter plate may not be:

- (1) Used in lieu of registration plates;
- (2) Loaned to another;
- (3) Used for personal reasons; or
- (4) Used on a towing vehicle, except for a drive-away saddlemount vehicle transporter combination.

Sec. 8. 29-A MRSA §2390, sub-§1, ¶I, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

- I. Saddlemount Drive-away saddlemount vehicle transporter combinations with up to 3 saddlemounted vehicles and one fullmount, with an overall length not exceeding 75 97 feet, may be operated on the Interstate Highway System and those qualifying federal aid primary system highways designated by the Secretary of the United States Department of Transportation; pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411.

Sec. 9. 36 MRSA §3321, sub-§4, as enacted by PL 2001, c. 688, §8, is repealed and the following enacted in its place:

4. Legislative review. Starting in 2008 and each even-numbered year thereafter, the Department of Transportation shall submit an emergency bill by the cloture date established for departments and agencies for the first regular session of the Legislature that suspends the adjustment in fuel tax rates in the upcoming biennium resulting from the operation of this section.

Sec. 10. P&SL 1937, c. 18, as amended by P&SL 1985, c. 38, is repealed.

Sec. 11. Limitation on certain stormwater fees. The Department of Transportation and the Maine Turnpike Authority are not subject to any fee or

tax imposed pursuant to a municipal storm water ordinance that was in effect on January 1, 2007.

Sec. 12. Contingent effective date. That section of this Act that repeals Private and Special Law 1937, chapter 18 takes effect only if the New Hampshire General Court repeals the concurrent New Hampshire law relating to the Maine-New Hampshire Interstate Bridge Authority. The Department of Transportation shall notify the Secretary of State when this condition has been met. The Secretary of State shall provide notice to the Secretary of the Senate, the Clerk of the House of Representatives and the Office of the Revisor of Statutes.

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

Effective June 18, 2007, unless otherwise indicated.

CHAPTER 307

H.P. 635 - L.D. 836

An Act To Enhance Special Education

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

Sec. 1. 20-A MRSA §7209, sub-§1, ¶B, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

- B. During the period from July 1, 2006 to September June 30, 2007 2008, the department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall only approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 only in accordance with the following.

(1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

(2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educa-

tional unit to revise and resubmit the annual entitlement plan and the budget in a reasonable amount of time as determined by the commissioner.

(3) In the event the provisions of the resubmitted annual entitlement plan and the budget are not in compliance with the statewide standards established pursuant to subsection 3, the department is authorized to determine and approve an appropriate, final annual entitlement plan and a budget for the intermediate educational unit that is in compliance with the statewide standards established pursuant to subsection 3.

This paragraph is repealed September June 30, 2007 2008.

Sec. 2. 20-A MRSA §7209, sub-§2, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

2. State-level advisory committee. The state-level advisory committee is established for the period from July 1, 2006 to September June 30, 2007 2008 to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early childhood education consultant and the director of early childhood special education within the department. This subsection is repealed September June 30, 2007 2008.

Sec. 3. 20-A MRSA §7209, sub-§3, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

3. State intermediate educational unit. The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. For the period from July 1, 2006 to September June 30, 2007 2008, the state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel-classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual

entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;

B-1. Bargain collectively under Title 26, chapter 9-A if the employees of the regional sites choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer for purposes of collective bargaining;

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07;

F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel; and

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act;

I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter.

Sec. 4. 20-A MRSA §7209, sub-§5, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

5. Regional site board of directors. A board of directors of a regional site is responsible for governance of its activities, including the management and oversight of its general operations. Membership must include representatives of the regional offices of the Department of Health and Human Services, representatives of participating school administrative units, parents of children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the Child Development Services System is limited to work performed for the school administrative unit is exempt from the requirements of this subsection. Terms of membership and methods of appointment or election for each board of directors must be determined by the board of directors' bylaws, subject to approval by the department.

Sec. 5. 20-A MRSA §7209, sub-§6, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

6. Regional site board of directors; annual entitlement plan; site budget approval. A board of directors of a regional site is entitled to receive annual grant award allocations that are approved by the department in accordance with the approval provisions for the annual entitlement plan and the budget for a regional site pursuant to subsection 1, paragraph B. This subsection is repealed September 30, 2007.

Sec. 6. 20-A MRSA §7209, sub-§7, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

7. Regional site; administration. A board of directors of a regional site shall:

A. Hire, fire and supervise the staff of the regional site according to the job classifications, pay scales and personnel policies established by the state intermediate educational unit established under subsection 3;

B. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, using forms and procedures developed by the department;

C. Ensure data entry and reporting through June 30, 2007 2008; and

D. Provide fiscal management of money allocated to it, in compliance with federal and state laws and subject to proof of an annual audit.

Sec. 7. 20-A MRSA §7209, sub-§8, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

8. Regional site; duties and obligations. A board of directors of a regional site shall:

A. Ensure provision of child find activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Ensure provision of childcount activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Ensure appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State;

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services, in collaboration with school administrative units when possible;

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; and

G. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine which trained and certified personnel may commit funds.

All regional site employees and board of directors members of a regional intermediate education unit are employees for purposes of the Maine Tort Claims Act.

See title page for effective date.

A. For a gubernatorial candidate, at least 3,250 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgement.

Sec. 12. 21-A MRSA §1125, sub-§12, as enacted by IB 1995, c. 1, §17, is amended to read:

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family relationship in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections

that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

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

Effective April 7, 2008.

CHAPTER 572

H.P. 1446 - L.D. 2062

An Act Regarding Education Laws

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

PART A

Sec. A-1. 20-A MRSA §401-A, as enacted by PL 1987, c. 395, Pt. A, §47, is amended to read:

§401-A. Responsibilities of the State Board of Education

The State Board of Education is intended to act as a body with certain policy-making, administrative and advisory functions. In those capacities, the board has the primary responsibility for the following:

1. **Formulating policy.** Formulating policy by which the commissioner shall administer certain regulatory tasks;

2. **Advising commissioner.** Advising the commissioner in the administration of all the mandated responsibilities of that position; and

3. **Enforcing regulatory requirements.** Enforcing regulatory requirements for school administrative units.

The state board may advise the commissioner and the Legislature on matters concerning state laws relating to public preschool to grade 12 and postsecondary education.

Sec. A-2. 20-A MRSA §5401, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. **Municipal school units.** The superintendent of schools in a municipal school unit shall, with the approval of the school board, provide transportation for elementary school students and public preschool students a part of or the whole distance to and from the nearest suitable elementary school. The municipality

may provide transportation for secondary level students.

Sec. A-3. 20-A MRSA §5401, sub-§2, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. Elementary school students and public preschool students a part of or the whole distance to and from the nearest suitable school; and

Sec. A-4. 20-A MRSA §5401, sub-§3, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. Instruct the superintendent of schools to provide transportation for elementary and secondary school students and public preschool students all or a part of the way to and from the nearest suitable school; or

Sec. A-5. 20-A MRSA §5401, sub-§17 is enacted to read:

17. Rules. The department may adopt rules to implement the provisions of this section. A rule authorized or provisionally adopted by the department pursuant to this subsection or Title 29-A, section 2311 after January 1, 2008 that concerns the transportation of public preschool students is a major substantive rule and subject to legislative review in accordance with Title 5, chapter 375, subchapter 2-A. An amendment to a rule adopted pursuant to this subsection or Title 29-A, section 2311 prior to January 1, 2008 is considered a major substantive rule when the amendment concerns the transportation of public preschool students, and it is subject to legislative review in accordance with Title 5, chapter 375, subchapter 2-A.

Sec. A-6. 20-A MRSA c. 407, as amended, is repealed.

Sec. A-7. 20-A MRSA §10701, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Degree. "Degree" means a document of achievement at the associate level or higher conferred by a post-secondary postsecondary educational institution authorized to confer that degree in its home state. It includes educational, academic, literary or professional degrees. It also includes associate, baccalaureate, masters or master's and doctoral degrees and certificates of advanced graduate studies.

Sec. A-8. 20-A MRSA §10701, sub-§3, as amended by PL 1991, c. 563, §3 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

3. Educational institution. "Educational institution" means any person, partnership, board, association, institution or corporation other than the University of Maine System and the Maine Community College System and the Maine Maritime Academy that

offers academic, educational, literary or professional courses or programs.

Sec. A-9. 20-A MRSA §10702, as amended by PL 1987, c. 395, Pt. A, §81, is further amended to read:

§10702. Use of name "community college," "college" or "university"

An educational institution may use the term "junior community college," "college" or "university" in connection with its operation or use any other name, title or descriptive matter which that might tend to indicate that it is an institution of higher learning with the authority to confer degrees, only if it:

1. Temporary approval. Is operating under a license or certificate of temporary approval from the state board in accordance with section 10703; or

2. Authorization. Has authorization to confer degrees in accordance with sections 10704 and 10704-A.

Sec. A-10. 20-A MRSA §10703, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§10703. Temporary approval to use the name "community college," "college" or "university"

1. Power. The state board may grant an applicant a certificate of temporary approval, permitting use of the term "junior community college," "college" or "university" in its name until the earlier of:

A. The expiration of the academic year; or

B. The applicant is authorized by the Legislature to grant degrees in accordance with section 10704.

2. Extensions and renewals. The state board may extend or renew a certificate of temporary approval for not more than 2 years.

Sec. A-11. 20-A MRSA §10705, as amended by PL 1987, c. 395, Pt. A, §84, is further amended to read:

§10705. Courses for credit

An educational institution may offer courses or programs for academic credit leading to degree completion requirements only if:

1. Authority. It has been authorized under sections 10704 and 10704-A to grant degrees;

2. State board authority. It has been given temporary authority by the state board to use the name "junior community college," "college" or "university"; or

3. Out-of-state institution. It is:

A. Located in ~~another state~~ outside the State; and

B. Authorized by the state board to offer courses for academic credit leading to degree-completion requirements.

~~An educational institution may offer courses or programs for academic credit if it offers coordinated courses or programs in conformity with section 10706.~~

Sec. A-12. 20-A MRSA §10706, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§10706. Coordinated programs

An educational institution may offer courses or programs for academic credit ~~which~~ that are coordinated with a Maine degree-granting educational institution and ~~which~~ that have been approved by the state board.

Sec. A-13. 20-A MRSA §10707, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Temporary use of name. Applications for temporary state board authority to use the name "junior community college," "college" or "university" shall ~~must~~ be made to the state board on forms provided by the commissioner.

Sec. A-14. 20-A MRSA §10712, last ¶, as enacted by PL 1991, c. 563, §4, is amended to read:

Upon termination of its degree-granting authority pursuant to this section, an educational institution may apply to the state board pursuant to section 10703 for a certificate of temporary approval to use the term "junior community college," "college" or "university" in its name.

Sec. A-15. 20-A MRSA §10713, sub-§1, as enacted by PL 1991, c. 563, §4, is amended to read:

1. Investigations. Whenever the state board believes that an event, transaction or condition within the scope of section 10712 may have occurred or may exist, it may conduct an investigation, which may include, but is not limited to, an examination of the educational institution by a visiting committee convened by the state board for that purpose. As part of an investigation conducted under this subsection, the state board has the power to subpoena and examine under oath educational institutions, their trustees, directors, officers and employees, lenders, creditors and investors, together with their records, books and accounts. ~~Any member of the state board may sign investigative subpoenas and administer oaths to witnesses.~~ The state board may also require the educational institution to provide other written information relevant to the subject matter of the investigation in the format prescribed by the state board. The Superior Court has jurisdiction upon complaint filed by the state board to

enforce any subpoena or request for other written information issued under this subsection.

Sec. A-16. 22 MRSA §1971, sub-§1, as amended by PL 2007, c. 1, Pt. D, §3, is further amended to read:

1. Establishment. The position of school nurse consultant is established jointly within the department and the Department of Education. The Director of the Bureau of Health Maine Center for Disease Control and Prevention and the Policy Director of Special Services within the Department of Education shall jointly supervise the school nurse consultant.

Sec. A-17. 29-A MRSA §2311, as affected by PL 1993, c. 683, Pt. B, §5 and amended by PL 1995, c. 82, §1, is further amended to read:

§2311. Rules

The Commissioner of Education may adopt or amend rules consistent with this Title and in accordance with the Maine Administrative Procedure Act, concerning school bus construction, equipment, operation and identification. Rules adopted pursuant to this section that concern the transportation of public pre-school students are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

PART B

Sec. B-1. 20-A MRSA §7209, sub-§1, ¶B, as amended by PL 2007, c. 307, §1, is further amended to read:

B. ~~During the period from July 1, 2006 to June 30, 2008, the~~ The department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 only in accordance with the following.

(1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

(2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educational unit to revise and resubmit the annual entitlement plan and the budget in a reason-

able amount of time as determined by the commissioner.

(3) In the event the provisions of the resubmitted annual entitlement plan and the budget are not in compliance with the statewide standards established pursuant to subsection 3, the department is authorized to determine and approve an appropriate, final annual entitlement plan and a budget for the intermediate educational unit that is in compliance with the statewide standards established pursuant to subsection 3.

This paragraph is repealed June 30, 2008.

Sec. B-2. 20-A MRSA §7209, sub-§2, as amended by PL 2007, c. 307, §2, is further amended to read:

2. **State-level advisory committee.** The state-level advisory committee is established for the period ~~from July 1, 2006 to June 30, 2008~~ to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early childhood education consultant and the director of early childhood special education within the department. ~~This subsection is repealed June 30, 2008.~~

Sec. B-3. 20-A MRSA §7209, sub-§3, as corrected by RR 2007, c. 1, §9, is further amended to read:

3. **State intermediate educational unit.** The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. ~~For the period from July 1, 2006 to June 30, 2008, the~~ The state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;

B-1. Bargain collectively under Title 26, chapter 9-A if the employees of the regional sites choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer for purposes of collective bargaining;

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07;

F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel;

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and

I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter.

Sec. B-4. 20-A MRSA §7209, sub-§7, ¶C, as amended by PL 2007, c. 307, §6, is further amended to read:

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C. Ensure data entry and reporting through June 30, 2008; and

See title page for effective date.

CHAPTER 573

H.P. 1518 - L.D. 2138

An Act To Amend the Requirements for Approval of the Use of Physical Restraints

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

Sec. 1. 34-B MRSA §5605, sub-§14, as amended by PL 2003, c. 564, §3, is repealed.

Sec. 2. 34-B MRSA §5605, sub-§14-A is enacted to read:

14-A. Physical restraints. A person with mental retardation or autism is entitled to be free from a physical restraint unless:

A. The physical restraint is a short-term step to protect the person from imminent injury to that person or others; or

B. The physical restraint has been approved as a behavioral treatment program in accordance with this section.

A physical restraint may not be used as punishment for the convenience of the staff or as a substitute for rehabilitative services. A physical restraint may impose only the least possible restriction consistent with its purpose and must be removed as soon as the threat of imminent injury ends. A physical restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety. The use of totally enclosed cribs and barred enclosures is prohibited in all circumstances.

Daily records of the use of physical restraints identified in paragraph A must be kept, which may be accomplished by meeting reportable event requirements.

Daily records of the use of physical restraints identified in paragraph B must be kept, and a summary of the daily records pertaining to the person must be made available for review by the person's planning team, as defined in section 5461, subsection 8-C, on a schedule determined by the team. The review by the personal planning team may occur no less frequently than quarterly. The summary of the daily records must state the type of physical restraint used, the duration of the use and the reasons for the use. A monthly summary of all daily records pertaining to all persons must be relayed to the Office of Advocacy.

Sec. 3. 34-B MRSA §5605, sub-§14-B is enacted to read:

14-B. Mechanical supports. Mechanical supports used in normative situations to achieve proper body position and balance are not considered physical restraints, but mechanical supports must be prescriptively designed and applied under the supervision of a qualified professional with concern for principles of good body alignment and circulation and allowance for change of position.

Sec. 4. 34-B MRSA §5605, sub-§14-C is enacted to read:

14-C. Safety devices. A safety device whose effect is to reduce or inhibit a person's movement in any way but whose purpose is to maintain or ensure the safety of the person is not considered behavioral treatment or a physical restraint. Safety devices include, but are not limited to, implements, garments, gates, barriers, locks or locking apparatus, alarms, helmets, masks, gloves, straps, belts or protective gloves whose purpose is to maintain the safety of the person. The department may adopt rules concerning the use and approval of safety devices. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 574

S.P. 752 - L.D. 1958

An Act To Make Marine Resources Management More Responsive

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

Sec. 1. 12 MRSA §6171, sub-§5, as amended by PL 2007, c. 157, §1, is repealed and the following enacted in its place:

5. Rules to limit taking of marine organisms. The commissioner may adopt rules that limit the taking of a marine organism for the purpose of protecting another marine organism.

A. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

B. If the commissioner determines that for biological reasons a rule adopted under this section must take effect prior to final adoption under paragraph A, the commissioner may adopt the rule as a routine technical rule pursuant to Title 5, chapter 375, subchapter 2-A. A rule adopted under this paragraph is effective until 90 days after the adjournment of the next regular session of the

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Maine Revised Statutes

[§7209 PDF](#)
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[Title 20-A:](#)
[§7210](#)
[§7209 WORD/RTF](#)

EDUCATION

[STATUTE SEARCH](#)

Part 4: SPECIFIC EDUCATION PROGRAMS

[CH. 303 CONTENTS](#)

Subpart 1: SPECIAL EDUCATION

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Chapter 303: CHILDREN WITH DISABILITIES

[LIST OF TITLES](#)

HEADING: PL 2005, C. 662, PT. A, §21 (RPR)

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Subchapter 1: GENERAL PROVISIONS

[MAINE LAW](#)
[REVISOR'S OFFICE](#)

§7209. General administration and supervision

[MAINE LEGISLATURE](#)

1. Department of Education. The department shall serve as the

lead agency for the statewide system pursuant to 20 United States Code, Section 1435, including the identification and coordination of all available resources within the State for services to eligible children from birth to under 3 years of age, and shall exercise general supervisory authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and the provision of a free, appropriate public education to children at least 3 years of age and under 6 years of age.

A. The commissioner or the commissioner's designee is responsible for developing and adopting rules necessary to carry out the provisions of the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq. [2005, c. 662, Pt. A, §30 (NEW).]

B. [2007, c. 307, §1 (AMD); MRSA T. 20-A, §7209, sub-§1, ¶B (RP).]

C. The commissioner or the commissioner's designee is responsible for ensuring legal and policy compliance throughout the early childhood special education program by reviewing or performing regular audits of program records. [2005, c. 662, Pt. A, §30 (NEW).]

D. The commissioner or the commissioner's designee is responsible for ensuring fiscal compliance throughout the early childhood special education program by reviewing or performing regular audits of program records. [2005, c. 662, Pt. A, §30 (NEW).]

E. The department, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary

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responsibility for operations at a regional site that fails to meet compliance requirements. The department shall report at least quarterly to the state interagency coordinating council described in 20 United States Code, Section 1441, to the state advisory panel described in 34 Code of Federal Regulations, Sections 300.167 to 300.169 and to other advisory bodies that may be appropriate about individual regional sites that are under an action plan and about individual regional sites for whose operations the department has taken temporary responsibility. These reports must describe any progress or slippage by individual regional sites in meeting compliance requirements. For an individual regional site under an action plan, the reports must describe how long the department expects the regional site to remain under an action plan. For an individual regional site for whose operation the department has taken temporary responsibility, the reports must describe when the department expects to return responsibility to the regional site. [2007, c. 530, §1 (AMD).]

[2007, c. 530, §1 (AMD) .]

2. State-level advisory committee.

[2007, c. 307, §2 (AMD); MRSA T. 20-A, §7209, sub-§2 (RP) .]

3. State intermediate educational unit. The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. The state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07; [2005, c. 662, Pt. A, §30 (NEW) .]

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel; [2005, c. 662, Pt. A, §30 (NEW) .]

B-1. Bargain collectively under Title 26, chapter 9-A if the employees of the regional sites choose to be represented by an

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agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer for purposes of collective bargaining; [2007, c. 307, §3 (NEW).]

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller; [2005, c. 662, Pt. A, §30 (NEW).]

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007; [2005, c. 662, Pt. A, §30 (NEW).]

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07; [2005, c. 662, Pt. A, §30 (NEW).]

F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames; [2005, c. 662, Pt. A, §30 (NEW).]

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel; [2007, c. 307, §3 (AMD).]

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and [RR 2007, c. 1, §9 (COR).]

I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter. [2007, c. 307, §3 (NEW).]

[2007, c. 572, Pt. B, §3 (AMD) .]

4. Director of early childhood special education. The commissioner shall appoint and supervise a director of early childhood special education. The director has the following powers and duties:

A. To administer the state intermediate educational unit established under subsection 3. The director shall develop

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operating policies and establish organizational and operational procedures that include supervision, monitoring, data and accountability structures; [2005, c. 662, Pt. A, §30 (NEW).]

B. To develop statewide policies and procedures for carrying out federal and state laws and rules relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age; [2007, c. 450, Pt. A, §1 (AMD).]

C. To provide training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412 (a) (3), early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found; and [2007, c. 450, Pt. A, §2 (AMD).]

D. To report annually to the council and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on the performance of the Child Development Services System. This report may include information on any expansions of the connections of child find and service delivery with school administrative units, with the Department of Health and Human Services and with medical providers. This report may include information on any expansion of the connection of child find with nurse midwives. This report may include information on the number of children screened in the programs in Title 22, sections 1532, 8824 and 8943, the number of such children referred to the Child Development Services System who were found eligible for early intervention and the number of such children referred to the Child Development Services System who were found ineligible for early intervention. This report may also include information on annual performance over at least a 5-year period of each individual regional site and of the entire Child Development Services System; may benchmark performance against state and national standards; may include information about performance in child find, service delivery, service coordination, eligibility and exit data for children leaving the Child Development Services System; and may describe strategies that the Child Development Services System has undertaken to maximize the usage of a broad base of community resources including private providers, public schools, resources from other agencies and other available resources serving children and families. The report must be publicly posted on the website of the department. [2007, c. 450, Pt. A, §3 (NEW).]

[2007, c. 450, Pt. A, §§1-3 (AMD) .]

5. Regional site board of directors. A board of directors of a

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regional site is responsible for governance of its activities, including the management and oversight of its general operations. Membership must include representatives of the regional offices of the Department of Health and Human Services, representatives of participating school administrative units, parents of children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the Child Development Services System is limited to work performed for the school administrative unit is exempt from the requirements of this subsection. Terms of membership and methods of appointment or election for each board of directors must be determined by the board of directors' bylaws, subject to approval by the department.

[2007, c. 307, §4 (AMD) .]

6. Regional site board of directors; annual entitlement plan; site budget approval. A board of directors of a regional site is entitled to receive annual grant award allocations that are approved by the department in accordance with the approval provisions for the annual entitlement plan and the budget for a regional site pursuant to subsection 1, paragraph B.

[2007, c. 307, §5 (AMD) .]

7. Regional site; administration. A board of directors of a regional site shall:

A. Hire, fire and supervise the staff of the regional site according to the job classifications, pay scales and personnel policies established by the state intermediate educational unit established under subsection 3; [2005, c. 662, Pt. A, §30 (NEW) .]

B. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, using forms and procedures developed by the department; [2005, c. 662, Pt. A, §30 (NEW) .]

C. Ensure data entry and reporting ; and [2007, c. 572, Pt. B, §4 (AMD) .]

D. Provide fiscal management of money allocated to it, in compliance with federal and state laws and subject to proof of an annual audit. [2005, c. 662, Pt. A, §30 (NEW) .]

[2007, c. 572, Pt. B, §4 (AMD) .]

8. Regional site; duties and obligations. A board of directors of a regional site shall:

A. Ensure provision of child find activities as required by the federal Individuals with Disabilities Education Act, 20 United

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States Code, Section 1400 et seq.; [2005, c. 662, Pt. A, §30 (NEW).]

B. Ensure provision of childcount activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; [2005, c. 662, Pt. A, §30 (NEW).]

C. Ensure appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; [2005, c. 662, Pt. A, §30 (NEW).]

D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State; [2005, c. 662, Pt. A, §30 (NEW).]

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services, in collaboration with school administrative units when possible; [2005, c. 662, Pt. A, §30 (NEW).]

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; [2007, c. 450, Pt. A, §4 (AMD).]

G. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine and designate which trained and certified personnel may commit funds; and [2007, c. 450, Pt. A, §5 (AMD).]

H. Ensure that children from birth until 6 years of age who are referred to the Child Development Services System also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of the child's eligibility for early intervention or free, appropriate public education. [2007, c. 450, Pt. A, §6 (NEW).]

All regional site employees and board of directors members of a regional intermediate education unit are employees for purposes of the Maine Tort Claims Act.

[2007, c. 307, §7 (AMD); 2007, c. 450, Pt. A, §§4-6 (AMD) .]

SECTION HISTORY

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2005, c. 662, §A30 (NEW). RR 2007, c. 1, §9 (COR). 2007, c. 307, §§1-7 (AMD). 2007, c. 450, Pt. A, §§1-6 (AMD). 2007, c. 530, §1 (AMD). 2007, c. 572, Pt. B, §§1-4 (AMD). MRSA T. 20-A, §7209, sub-§1/B (AMD). MRSA T. 20-A, §7209, sub-§2 (AMD).

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If you need legal advice, please consult a qualified attorney.**

Office of the Revisor of Statutes

7 State House Station
State House Room 108
Augusta, Maine 04333-0007

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*38687 20-A M.R.S.A. § 7209

MAINE REVISED STATUTES ANNOTATED
TITLE 20-A. EDUCATION
PART 4. SPECIFIC EDUCATION PROGRAMS
SUBPART 1. SPECIAL EDUCATION
CHAPTER 303. CHILDREN WITH DISABILITIES
SUBCHAPTER 1. GENERAL PROVISIONS

*Current with legislation through the 2009 Second Regular Session of the 124th
Legislature*

§ 7209. General administration and supervision

1. Department of Education. The department shall serve as the lead agency for the statewide system pursuant to 20 United States Code, Section 1435, including the identification and coordination of all available resources within the State for services to eligible children from birth to under 3 years of age, and shall exercise general supervisory authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and the provision of a free, appropriate public education to children at least 3 years of age and under 6 years of age.

A. The commissioner or the commissioner's designee is responsible for developing and adopting rules necessary to carry out the provisions of the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq.

B. The department, in a manner consistent with the authority of the board of directors of an intermediate educational unit, shall approve the annual entitlement plan and the budget for an intermediate educational unit pursuant to subsection 6 only in accordance with the following:

(1) The department shall approve the entitlement plan and the budget if the provisions of the entitlement plan and the budget are in compliance with the statewide standards established by the state intermediate educational unit pursuant to subsection 3 for the purpose of ensuring coordinated service delivery in each region of the State.

(2) In the event that the department determines that the provisions of the annual entitlement plan and the budget presented by a board of directors of an intermediate educational unit are not in compliance with the statewide standards established pursuant to subsection 3, the department shall require the board of directors of the intermediate educational unit to revise and resubmit the annual entitlement plan and the budget in a reasonable amount of time as determined by the commissioner.

*38688 (3) In the event the provisions of the resubmitted annual entitlement plan and the budget are not in compliance with the statewide standards established pursuant to subsection 3, the department is authorized to determine and approve an appropriate, final annual entitlement plan and a budget for the intermediate educational unit that is in compliance with the statewide standards established pursuant to subsection 3.

C. The commissioner or the commissioner's designee is responsible for ensuring legal and policy compliance throughout the early childhood special education program by reviewing or performing regular audits of program records.

D. The commissioner or the commissioner's designee is responsible for ensuring fiscal compliance throughout the early childhood special education program by reviewing or performing regular audits of program records.

E. The department, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary responsibility for operations at a regional site that fails to meet compliance requirements. The department shall report at least quarterly to the state interagency coordinating council described in 20 United States Code, Section 1441, to the state advisory panel described in 34 Code of Federal Regulations, Sections 300.167 to 300.169 and to other advisory bodies that may be appropriate about individual regional sites that are under an action plan and about individual regional sites for whose operations the department has taken temporary responsibility. These reports must describe any progress or slippage by individual regional sites in meeting compliance requirements. For an individual regional site under an action plan, the reports must describe how long the department expects the regional site to remain under an action plan. For an individual regional site for whose operation the department has taken temporary responsibility, the reports must describe when the department expects to return responsibility to the regional site.

2. State-level advisory committee. The state-level advisory committee is established to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early childhood education consultant and the director of early childhood special education within the department.

3. State intermediate educational unit. The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and ensuring a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age. The state intermediate educational unit shall perform the following statewide coordination and administration functions:

*38689 A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, which must be included in the annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;

B-1. Bargain collectively under Title 26, chapter 9-A [FN1] if the employees of the regional sites choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer

for purposes of collective bargaining;

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, that must be included in the annual entitlement plan described in subsection 1, beginning in fiscal year 2006-07;

F. Refine program accountability standards for compliance with federal mandates that must be included in the annual entitlement plan described in subsection 1, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel;

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and

***38690** I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter.

4. Director of early childhood special education. The commissioner shall appoint and supervise a director of early childhood special education. The director has the following powers and duties:

A. To administer the state intermediate educational unit established under subsection 3. The director shall develop operating policies and establish organizational and operational procedures that include supervision, monitoring, data and accountability structures;

B. To develop statewide policies and procedures for carrying out federal and state laws and rules relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age;

C. To provide training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412 (a) (3), early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found; and

D. To report annually to the council and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on the performance of the Child Development Services System. This report may include information on any expansions of the connections of child find and service delivery with school administrative units, with the Department of Health and Human Services and with medical providers. This report may include information on any expansion of the connection of child find with nurse midwives. This report may include information on the number of children screened in the programs in Title 22, sections 1532, 8824 and 8943, the number of such children referred to the Child Development Services System who were found eligible for early intervention and the number of such children referred to the Child Development Services System who were found ineligible for early intervention. This report may also include information on annual performance over at least a 5-year period of each individual regional site and of the entire Child Development Services System; may benchmark performance against state and national standards; may include information about performance in child find, service delivery, service coordination, eligibility and exit data for children leaving the Child Development Services System; and may describe strategies that the Child Development Services System has undertaken to maximize the usage of a broad base of community resources including private providers, public schools, resources from other agencies and other available resources serving children and families. The report must be publicly posted on the website of the department.

*38691 5. Regional site board of directors. A board of directors of a regional site is responsible for governance of its activities, including the management and oversight of its general operations. Membership must include representatives of the regional offices of the Department of Health and Human Services, representatives of participating school administrative units, parents of children with disabilities and other community members as determined appropriate. A regional site board member or a board member's employer may not, during the term for which the member serves on the board, derive any revenue from work performed for the Child Development Services System. A representative of a participating school administrative unit whose participation in the Child Development Services System is limited to work performed for the school administrative unit is exempt from the requirements of this subsection. Terms of membership and methods of appointment or election for each board of directors must be determined by the board of directors' bylaws, subject to approval by the department.

6. Regional site board of directors; annual entitlement plan; site budget approval. A board of directors of a regional site is entitled to receive annual grant award allocations that are approved by the department in accordance with the approval provisions for the annual entitlement plan and the budget for a regional site pursuant to subsection 1, paragraph B.

7. Regional site; administration. A board of directors of a regional site shall:

A. Hire, fire and supervise the staff of the regional site according to the job classifications, pay scales and personnel policies established by the state intermediate educational unit established under subsection 3;

B. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, using forms and procedures developed by the department;

C. Ensure data entry and reporting; and

D. Provide fiscal management of money allocated to it, in compliance with federal and state

laws and subject to proof of an annual audit.

8. Regional site; duties and obligations. A board of directors of a regional site shall:

A. Ensure provision of child find activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Ensure provision of childcount activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Ensure appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

*38692 D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State;

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services, in collaboration with school administrative units when possible;

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; and

G. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine which trained and certified personnel may commit funds.

H. Ensure that children from birth until 6 years of age who are referred to the Child Development Services System also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of the child's eligibility for early intervention or free, appropriate public education.

All regional site employees and board of directors members of a regional intermediate education unit are employees for purposes of the Maine Tort Claims Act. [FN2]

CREDIT(S)

2005, c. 662, § A-30, eff. May 30, 2006; 2007, c. 307, §§ 1 to 7; 2007, c. 450, §§ A-1 to A-6; R.R.2007, c. 1, § 9, eff. Oct. 1, 2007; 2007, c. 530, § 1; 2007, c. 572, §§ B-1 to B-4.

[FN1] 26 M.R.S.A. § 961 et seq.

[FN2] 14 M.R.S.A. § 8101 et seq.

<General Materials (GM) - References, Annotations, or Tables>

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HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2008 Main Volume

Laws 2007, c. 307, § 1, in subsec. 1, in par. B, substituted "June 30, 2008" for "September 30, 2007" throughout; and in the introductory paragraph, deleted "only" preceding "approve the annual entitlement plan"; and inserted "only" following "subsection 6".

Laws 2007, c. 307, § 2, in subsec. 2, substituted "June 30, 2008" for "September 30, 2007" throughout.

Laws 2007, c. 307, § 3, in subsec. 3, in the introductory paragraph, in the third sentence substituted "June 30, 2008" for "September 30, 2007"; added pars. B-1 and I; and made nonsubstantive changes.

Laws 2007, c. 307, § 4, in subsec. 5, in the fifth sentence substituted "directors' " for "director's".

Laws 2007, c. 307, § 5, in subsec. 6, deleted the second sentence, which prior thereto read: "This subsection is repealed September 30, 2007."

Laws 2007, c. 307, § 6, in subsec. 7, in par. C, substituted "2008" for "2007".

Laws 2007, c. 307, § 7, in subsec. 8, added the undesignated paragraph following par. G.

Laws 2007, c. 450, § A-1, deleted "and" at the end of subsec. 4, par. B.

Laws 2007, c. 450, § A-2, inserted "; and" at the end of subsec. 4, par. C.

Laws 2007, c. 450, § A-3, inserted subsec. 4, par. D.

Laws 2007, c. 450, § A-4, deleted "and" at the end of subsec. 8, par. F.

Laws 2007, c. 450, § A-5, inserted "; and" at the end of subsec. 8, par. G.

Laws 2007, c. 450, § A-6, inserted subsec. 8, par. H.

Revisor's Report 2007, c. 1, § 9, in subsec. 3, at the end of par. H, added "and".

2010 Electronic Pocket Part Update

2007 Legislation

Laws 2007, c. 530, § 1, in subsec. 1, rewrote par. E, which formerly read:

"E. The department, in consultation with regional sites, shall develop an action plan with timelines to achieve compliance with federal or state law. The department may assume temporary responsibilities for operations at a regional site that fails to meet compliance requirements."

Laws 2007, c. 572, § B-1, in subsec. 1, in par. B, in the introductory paragraph, deleted "During the period from July 1, 2006 to June 30, 2008," preceding "The department", and deleted the last paragraph, which formerly read:

"This paragraph is repealed June 30, 2008."

*38694 Laws 2007, c. 572, § B-2, rewrote subsec. 2, which formerly read:

"2. State-level advisory committee. The state-level advisory committee is established for the period from July 1, 2006 to June 30, 2008 to advise on the provisions of this section. Members of the state-level advisory committee are appointed by the commissioner and must include representatives from each board of directors of a regional site described in subsection 5, the early

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childhood education consultant and the director of early childhood special education within the department. This subsection is repealed June 30, 2008."

Laws 2007, c. 572, § B-3, in subsec. 3, in the introductory paragraph, in the third sentence deleted "For the period from July 1, 2006 to June 30, 2008," preceding "The state intermediate".

Laws 2007, c. 572, § B-4, in subsec. 7, in par. C, deleted "through June 30, 2008" following "reporting".

REFERENCES

LIBRARY REFERENCES

2008 Main Volume

Schools ☞ 47, 155.5(1).

Westlaw Topic No. 345.

C.J.S. Schools and School Districts §§ 81 to 92, 174, 704.

Reinsch, Margaret

From: McCarthy, Phillip
Sent: Tuesday, May 31, 2011 6:08 PM
To: Reinsch, Margaret
Subject: IEU definition

Peggy:

It may be helpful for JUD Cmte to know the definition of an "IEU" and that it essentially defines the regional sites of the Child Development Services System. The definition can be found at 20-A, section 7001, subsection 2-B ...

2-B. Intermediate educational unit. "Intermediate educational unit" means an entity that meets the definition of intermediate educational unit in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1402, (23) as in effect prior to June 4, 1997 and that is a public authority, other than a local educational agency, under the general supervision of the department, that is established for the purpose of providing free public education on a regional basis and that provides special education and related services to children with disabilities within the State. An intermediate educational unit is considered a local educational agency under federal law. The Child Development Services System regional sites are organized as intermediate educational units. In this State, a local educational agency is a school administrative unit. For purposes of this chapter all references to school administrative units include intermediate educational units.

Hope this helps!

;lo
Phil

Phillip D. McCarthy, Ed.D.
Legislative Analyst
Office of Policy & Legal Analysis
Maine State Legislature
Voice: 207.287.1670; Fax: 207.287.1275
Maine Relay Service: 1.800.437.1220 or 207.955.3323

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ERRORS BILL SUPPLEMENT § SUPP-13

LAW AMENDED: 22 MRSA 679-A, sub-§2

General Subject: Radiation Protection Act; DHHS duties

Type of correction (conflict, reference, other): reference

Category (technical, substantive): technical

Is amendment to Errors Bill needed? No
(If so, draft/mark up and explain below)

Prepared by: ATB

Date: 3/25/12

File name: G:\COMMITTEES\JUD\ERRORS BILL 2012\SUPP 13 22 679-A 2.doc(3/24/2012 1:19:00 PM)

Has the error already been fixed in another bill?

LD

PL? P&SL?

Has section been amended/repealed in another bill?

LD

PL? P&SL?

EXPLANATION

22 MRSA §679-A is in the Radiation Protection Act. §674 designates the Department of Health and Human Services as the State Radiation Control Agency under the Act. 22 MRSA §679-A, sub-§1 designates the DHHS as the agency to regulate and enforce the Texas Low-Level Radioactive Waste Disposal Compact, referred to as the "compact." §679-A, sub-§2 establishes the duties of DHHS.

PL 1985, c. 309 established the Advisory Commission on Radioactive Waste in 38 MRSA §1453. That section included a sunset provision for the Commission in sub-§7 for June 30, 1989 unless modified by law. PL 1993, c. 92 repealed sub-§7, the sunset provision. PL 1993, c. 664 repealed §1453 and enacted §1453-A, a new section on the Advisory Commission and §1453-A, sub-§7 enacted a new repeal date of June 30, 1999. That act also enacted 22 MRSA §679-A. PL 1999, c. 585, §3 amended §1453-A, sub-§7 to extend the repeal date to June 30, 2006.

Supp-13 amends the duties of the department, DHHS, under the compact, to reflect the sunset of the Advisory Commission on Radioactive Waste. It strikes out the references to DHHS's duties with respect to the Commission since it has not existed since June 30, 2006.

Sec. 13. 22 MRSA §679-A, sub-§2, as enacted by PL 1993, c. 664, §10, is amended to read:

2. Duties of the department. The department shall:

A. Develop rules to fulfill the State's responsibilities and requirements for the compact pursuant to the contract requirements set forth in Article IV, Section 4.05, subsections (1) to (4), (6) and (8) of the compact; and

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact; and to compensate the state commission member ~~and to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453 A; and,~~

~~C. Report annually to the Advisory Commission on Radioactive Waste on its activities pertaining to this section.~~

SUMMARY

Section 13 removes references to the previously dissolved Advisory Commission on Radioactive Waste and makes technical corrections.

Maine Revised Statutes

☒ §679-A PDF

§679

Title 22: HEALTH AND WELFARE

§679-B

☒ §679-A WORD/RTF

☒ STATUTE SEARCH

☒ CH. 160 CONTENTS

☒ TITLE 22 CONTENTS

☒ LIST OF TITLES

☒ DISCLAIMER

☒ MAINE LAW

☒ REVISOR'S OFFICE

☒ MAINE LEGISLATURE

Subtitle 2: HEALTH Part 2: STATE AND LOCAL HEALTH AGENCIES Chapter 160: RADIATION PROTECTION ACT

§679-A. Low-level radioactive waste management

1. Designated. The department is designated as the agency to fulfill the state regulatory and enforcement requirements for the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The department shall also execute the administrative requirements of the compact as defined in subsection 2, paragraph B.

[1993, c. 664, §10 (NEW) .]

2. Duties of the department. The department shall:

A. Develop rules to fulfill the State's responsibilities and requirements for the compact pursuant to the contract requirements set forth in Article IV, Section 4.05, subsections (1) to (4), (6) and (8) of the compact. [1993, c. 664, §10 (NEW) .]

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact, to compensate the state commission member and to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A; and [1993, c. 664, §10 (NEW) .]

C. Report annually to the Advisory Commission on Radioactive Waste on its activities pertaining to this section. [1993, c. 664, §10 (NEW) .]

[1993, c. 664, §10 (NEW) .]

3. Employees. To fulfill the requirements of this section, the department may employ staff subject to the Civil Service Law.

[1993, c. 664, §10 (NEW) .]

SECTION HISTORY

1993, c. 664, §10 (NEW) .

Data for this page extracted on 02/21/2012 04:49:58.

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes

7 State House Station

State House Room 108

Augusta, Maine 04333-0007

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PL 1985

during the period when a work-restricted license has been issued shall not be entitled to any further relief during the remaining term of the revocation.

Sec. 3. 29 MRSA §2296-B, sub-§4, as enacted by PL 1983, c. 503, is repealed and the following enacted in its place:

4. Eligibility. A person is not eligible for a license under this section if one or more of the convictions or adjudications upon which his habitual offender status is based is under:

- A. Section 2292, subsection 1, paragraph A; or
- B. Section 2292, subsection 1, paragraph B, if the person has not completed the periods of suspension required in accordance with section 1311-A, 1312-B or 1312-D and unless the Secretary of State has received written notice that the person has satisfactorily completed the alcohol educational program of the Department of Human Services and, when required, has satisfactorily completed an alcohol treatment or rehabilitation program approved or licensed by the department. The license shall contain the condition that the person abstain from the use of intoxicating liquor.

Effective September 19, 1985.

CHAPTER 309

S.P. 247 - L.D. 642

AN ACT to Create the Advisory Commission on Radioactive Waste to Replace the Low-level Waste Commission.

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

Sec. 1. 3 MRSA §507, sub-§6, ¶B, as repealed and replaced by PL 1983, c. 819, Pt. A, §1, is amended to read:

B. Unless continued or modified by law, the following Group C-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1985:

- (1) Maine Sardine Council;
- (2) Atlantic Sea Run Salmon Commission;
- (3) Public Utilities Commission;
- (4) State Development Office;
- (5) Office of Energy Resources;
- (6) Atlantic States Marine Fisheries Commission;
- (7) Maine Development Foundation;
- (8) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;
- (9) State Energy Resource Advisory Board;
- (10) Low-level Waste Siting Commission Advisory Commission on Radioactive Waste;

(11) Lobster Advisory Council; and

(12) State Board of Examiners of Psychologists.

Sec. 2. 3 MRSA §507-B, sub-§7 is enacted to read:

7. Agencies scheduled for termination on June 30, 1985. The following agencies scheduled for termination on June 30, 1985, pursuant to section 507, subsection 6, paragraph B, shall continue, but shall terminate, not including the grace period, no later than June 30, 1989, unless continued or modified by law:

A. Advisory Commission on Radioactive Waste.

Sec. 3. 5 MRSA §12004, sub-§10, ¶A, sub-¶(17), as amended by PL 1983, c. 362, §§22-25, is further amended to read:

(17) Environment Low-level Waste Expenses 38 MRSA §1496 Siting Commission only

Sec. 4. 5 MRSA §12004, sub-§11, ¶A, sub-¶(4) is enacted to read:

(4) Environment Radioactive Waste Expenses 18 MRSA §1454
Advisory Commission all mem-
bers, Pub-
lic and
legisla-
tive mem-
bers-\$25/
day

Sec. 5. 38 MRSA §1451, sub-§3-A is enacted to read:

3-A. Commission. "Commission" means the Advisory Commission on Radioactive Waste established by section 1454.

Sec. 6. 38 MRSA §§1453 and 1454 are enacted to read:

§1453. Advisory Commission on Radioactive Waste

1. Establishment; purpose. The Advisory Commission on Radioactive Waste is established by this section as a successor to the previous Low-level Waste Siting Commission. The purpose of the commission is to advise the Governor and the Legislature on matters relating to radioactive waste management and it shall have the duties specified in subsection 3.

2. Membership; appointment. The commission shall consist of 13 members, who shall be appointed as follows: The Commissioner of Environmental Protection, the Commissioner of Human Services and the State Geologist or their designees shall be members of the commission. The President of the Senate shall appoint 3 Senators, 2 from the majority party and one from the minority party; one person from an organization that holds a license for the use of radioactive material; and one person from the general public. The Speaker of the House of Representatives shall appoint 3 Representatives, 2 from the majority party, and one from the minority party; one person from an organization that holds a license for the use of radioactive material; and one person from the general public. The terms of legislative members of the Commission shall expire the first Wednesday in December 1986, and in even numbered years. The terms of the public member appointed by the President of the Senate and the licensee member appointed by the Speaker of the House of Representatives shall expire December 31, 1986, and every 2 years thereafter; and the terms of the public member appointed by the Speaker of the House of Representatives and the licensee member appointed by the President of the Senate shall expire December 31, 1987, and every 2 years thereafter. Members may continue to serve until their replacements are designated. Vacancies shall be filled by

the appointing authority to complete the term of the preceding appointee.

The commission shall elect a chairman from its legislative membership. The Commissioner of Environmental Protection shall serve as vice-chairman.

3. Duties. The duties of the commission are to:

A. Study the management, transportation, storage and disposal of radioactive waste, including low-level and high-level radioactive waste generated in or near this State;

B. Evaluate methods and criteria for siting and constructing low-level radioactive waste disposal or storage facilities;

C. Evaluate methods and criteria for siting and constructing high-level radioactive waste repositories or storage facilities;

D. Advise the Governor and the Legislature on the findings and recommendations of the commission;

E. Assist the Governor in regional efforts to manage radioactive waste; and

F. Provide opportunities for public input, disseminate information to the general public and promote public understanding concerning radioactive waste issues.

4. Reports. The commission shall report to the Governor and the Legislature annually, during the regular legislative session and at other times as necessary.

5. Compensation. Members of the commission shall be compensated in accordance with the provisions of Title 5, chapter 379.

6. Assistance. The Commissioner of Environmental Protection shall provide assistance to the commission in the conduct of its business. Within available funds, the Maine Geological Survey and other appropriate agencies shall provide technical assistance. The Legislative Council shall also provide legislative staff assistance.

7. Sunset. This commission shall be subject to review and shall terminate in accordance with Title 3, chapter 23, not including the grace period, no later than June 30, 1989, unless continued or modified by law.

§1454. Radioactive Waste Evaluation Fund

1. Establishment. There is established the Radioactive Waste Evaluation Fund to be used to carry out the purpose of this chapter. This fund shall be administered by the Commissioner of Environmental Protection in accordance with established budgetary procedures. The commissioner may accept state, federal and private funds to be used to assure safe and effective low-level radioactive waste management, to develop capacity for sale, storage and disposal of these wastes and to monitor and evaluate plans for storage and disposal of high-level radioactive waste.

2. Service fee. Until the ceiling established in subsection 4 is reached, a service fee of \$10 per cubic foot shall be levied on all low-level radioactive waste generated in this State which is shipped to commercial disposal facilities or stored awaiting disposal at a low-level radioactive waste disposal facility or stored for any purpose for more than one year. The service fee shall not apply to low-level radioactive waste which is authorized by the United States Nuclear Regulatory Commission to be stored for decay on the site of generation for less than one year or disposed of without regard to radioactivity. The Board of Environmental Protection shall identify, by rule adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, those

wastes which are exempt from the service fee, consistent with the intent of this section. The service fee shall be paid only once on any particular waste. The revenue from this service fee shall be credited to the fund established in subsection 1 and used to carry out the purposes of this subchapter.

3. Fee limitation. Whenever the balance in the fund established by this section has reached the limit provided in subsection 4, the service fee shall be temporarily suspended. Thereafter, any license holder shall be assessed an annual pro rata fee, at the end of each fiscal year sufficient to reimburse the fund for any of the expenditures which have been made for the purposes authorized by this subchapter during that fiscal year. The pro rata fee shall be based on the volume of waste generated by each generator which is shipped to commercial disposal facilities or stored awaiting disposal at a low-level radioactive waste disposal facility following suspension of the service fee during that fiscal year.

4. Ceiling. Except for moneys received from federal sources, the fund established by this section shall not exceed a balance of \$100,000 during the fiscal year 1985-1986 or \$150,000 at any time after July 1, 1986. Any amounts collected in excess of that amount shall be remitted to the contributors within 10 days. Upon dissolution of the commission, any unexpended funds shall be promptly remitted to the contributors on a pro rata basis.

5. Allocation. The expenses for the administration of the commission in carrying out the duties as set forth in this chapter shall be paid from such amounts as the Legislature may allocate from the revenues in the Radioactive Waste Evaluation Fund. These amounts shall become available in accordance with Title 5, chapters 141 to 155.

The commission may receive and expend federal grants and payments for the purpose of carrying out its duties. The moneys received by the commission from federal sources shall not be counted toward the ceiling established in subsection 4.

6. Balance carried forward. Any unexpended balance shall not lapse, but shall be carried forward to the same fund for the next fiscal year and shall be available for the purposes authorized by this chapter.

7. Financial reports. The commissioner shall report quarterly to the Advisory Commission on Radioactive Waste, and annually, before February 1st to the joint standing committee of the Legislature having jurisdiction over natural resources on the income to and expenditures from the Radioactive Waste Evaluation Fund and on the budget for the coming year. Those reports shall include total fees received from each generator, and line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead, for both the commission and the department.

Sec. 7. 38 MRSA §1476, as amended by PL 1983, c. 812, §§296 and 297, is repealed.

Sec. 8. 38 MRSA §1477, as reallocated by PL 1983, c. 381, §6, is repealed.

Sec. 9. Transition provisions. The Low-level Waste Siting Commission and the Low-level Waste Siting Fund shall continue in effect until the Advisory Commission on Radioactive Waste is convened for its first meeting. The chairman of the Low-level Waste Siting Commission shall call the first meeting of the Radioactive Waste Commission. Section 6 of this Act shall take effect 90 days after adjournment of the First Regular Session of the 112th Legislature; all other sections of this Act shall take effect on the date of the first meeting of the Advisory Commission on Radioactive Waste.

The Radioactive Waste Evaluation Fund is the suc-

CHAPTER 309

cessor to the Low-level Waste Siting Fund. Upon establishment, the Radioactive Waste Evaluation Fund shall receive any unexpended balance from the Low-level Waste Siting Fund, which balance shall be allocated as provided by law.

All accrued expenditures, assets, liabilities, balances or allocations, transfers, revenues or other available funds in the account of the Low-level Waste Siting Commission shall be reallocated to the Advisory Commission on Radioactive Waste on the date of the first meeting of that commission. All contracts and agreements in effect with the Low-level Waste Siting Commission shall remain in effect following establishment of the Advisory Commission on Radioactive Waste, unless rescinded, terminated or modified by that commission.

Sec. 10. Allocation. The following funds are allocated from the Radioactive Waste Evaluation Fund to carry out the purposes of this Act.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Advisory Commission on
Radioactive Waste

	<u>1985-86</u>	<u>1986-87</u>
All Other	\$7,500	\$15,000

This allocation provides funds for radioactive waste study, evaluation and management activities required by this Act.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Advisory Commission on
Radioactive Waste and
Department of Environmental
Protection Technician
Studies

	(2) <u>1985-86</u>	(2) <u>1986-87</u>
Positions		
Personal Services	\$17,000	\$40,550
All Other	15,000	31,820
Total	\$32,000	\$72,370

This allocation provides funds for the Department of Environmental Protection's support function of the Advisory Commission on Radioactive Waste.

Sec. 11. Allocation. The following funds are allocated from the Low-level Waste Siting Fund to carry out the purposes of this Act.

Low-level Waste Siting
Commission

	<u>1985-86</u>
All Other	\$7,500

This allocation provides funds to carry the Low-level Waste

Siting Commission through the transitional period.

1985-86

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Positions	(1)
Personal Services	\$7,228
All Other	1,687
Total	\$8,915

This allocation provides funds to carry the Department of Environmental Protection's support function through the transitional period.

Effective September 19, 1985.

CHAPTER 310

S.P. 251 - L.D. 646

AN ACT Concerning Variances for Elevators.

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

26 MRSA §474, as repealed and replaced by PL 1977, c. 694, §455, is amended to read:

§474. Appeals

Any person aggrieved by an order or act of the supervising inspector or the state inspector of the bureau under this subchapter may, within 15 days after notice thereof, appeal from the order or act to the board which shall hold a hearing pursuant to Title 5, section 9951 et seq chapter 375, subchapter IV. The board shall, after the hearing, issue an appropriate order either approving or disapproving the order or act.

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of elevators or tramways may file a petition for a variance with the board, whether or not compliance with that provision is required at the time of filing or at a future date when that provision becomes effective. The filing fee for a petition for a variance is \$50. The board shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. The board shall grant a variance if, owing to conditions especially affecting the particular building or installation involved, the enforcement of any law, code or rule relating to elevators or tramways, would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or any occupant of the petitioner's building or would be unreasonable under the circumstances or condition of the property, provided that desirable relief may be granted without substantial detriment

(6)

the content of a request for waiver and procedures for the expeditious processing of the request in certain circumstances.

10-B. Renewal of contracts not originally subject to commission approval. For any amendment, extension or renewal of any contract otherwise subject to this section for which the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval under this section is not required.

Sec. 6. 35-A MRSA §3133-A, sub-§5, as enacted by PL 1987, c. 387, §4, is repealed.

Sec. 7. 35-A MRSA §3133-A, sub-§§5-A and 5-B are enacted to read:

5-A. Amendments, extensions and renewals. This section applies to any amendment, extension or renewal of any significant agreement or contract subject to this section, if the original contract was subject to approval by the commission. The commission may waive the approval requirements of this section with respect to a particular agreement or group of agreements upon request by the utility. The commission may also waive the 2-month notice requirement in subsection 1. If the commission does not respond to a request for waiver within 30 days, the request is deemed to have been granted. The commission shall prescribe by rule the content of a request for waiver in certain circumstances.

5-B. Amendments, extensions and renewals of contracts not originally subject to commission approval. For any amendment, extension or renewal of any contract otherwise subject to this section when the original contract was not subject to approval by the commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal, but approval is not required under this section.

Sec. 8. 35-A MRSA §3154, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Rate design and conservation improvements. The commission shall mandate, after notice and hearing on the proposed schedule, a scheduled phasing-in of the improvements in electric utility rate design and related regulatory programs submitted and approved under section 3153 3153-A and is authorized to order utilities to implement electric utility rate design improvements approved by the commission on a temporary, pilot and experimental basis, affecting either a portion or all of any class of consumers of any utility as the commission may determine is appropriate to carry out the purposes of this subchapter, and order other energy conservation techniques, programs and innovations relating to electric utility

service that, in the commission's judgment, are practicable, just and reasonably related to fulfilling the purposes of this chapter. In ordering any rate design improvements or any other programs for implementing energy conservation techniques and innovations referred to in section 3153 3153-A, the commission shall consider rate design stability and shall assure the revenue requirements of the utility.

Sec. 9. 35-A MRSA §6102, sub-§2, ¶D, as repealed and replaced by PL 1991, c. 52, §1, is amended to read:

D. Publish in a newspaper of general circulation in the service territory of the ~~consumer-owned~~ water utility a notice to customers that the information required in paragraphs A and B is available for public review at the location established pursuant to paragraph C and provide to each of the water utility's customers a direct written notice of the availability of that information; and

See title page for effective date.

CHAPTER 92

S.P. 320 - L.D. 973

An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act

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

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1993; and

Whereas, these provisions are intended to improve management, performance, organization, program delivery and fiscal accountability of agencies and independent agencies reviewed; and

Whereas, certain independent agencies will terminate unless continued by act of the Legislature prior to June 30, 1993; 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:

C. The commissioner shall conduct at least one public hearing to allow for public comment before establishing or revising the list.

D. The commissioner shall review the list biennially and add or delete species based on new botanical inventory data, taxonomic or other scientific studies or other documentation.

4. **Sensitive information.** The commissioner may withhold specific information on the location of a species or natural area and its component features if, in the judgment of the commissioner, disclosure of this information would threaten the existence of that species or natural area. The commissioner may not deny a landowner or landowner's designee information about species or natural areas occurring on the landowner's property or withhold this information from usual environmental review procedures of local, state or federal regulatory agencies.

§13079. Natural Areas Conservation Fund

The Natural Areas Conservation Fund is established as a nonlapsing separate account to be administered by the commissioner. Income from gifts, bequests, devises, grants, fees and other sources may be deposited in this fund. All money in the fund and earnings on that money must be used for the investigation, conservation and management of native plants, natural communities, ecosystems or other significant features as described in this chapter and for administrative and personnel costs for the purposes of this section. The commissioner may make grants from the fund to any person, organization, state agency or other entity to undertake inventory and research about rare plants, natural communities, ecosystems or other features of natural areas.

Funds in the Natural Areas Conservation Fund may not be deposited in the General Fund or any other fund except as provided by law. All funds of the Natural Areas Conservation Fund are subject to allocation by the Legislature.

Sec. 16. 5 MRSA §13111, sub-§10, as corrected by RR 1991, c. 2, §17, is repealed.

Sec. 17. 38 MRSA §1453, sub-§7, as enacted by PL 1985, c. 309, §6, is repealed.

Sec. 18. Transition provisions.

1. The Register of Critical Areas and the official list of native endangered and threatened plants of the State, as well as all existing rules and procedures in effect, in operation or adopted by the Critical Areas Program of the State Planning Office and the Maine Natural Heritage Program of the Department of Economic and Community Development or any of its administrative units or officers, are continued in effect until rescinded, revised or amended by the proper authority.

2. All existing contracts, leases, agreements, compacts and grants issued by the Critical Areas Program of the State Planning Office and the Maine Natural Heritage Program of the Department of Economic and Community Development before the effective date of this Act, continue to be valid under the terms of issuance either until expiration or rescission, amendment or revocation and are transferred to the Natural Areas Program within the Department of Economic and Community Development on the effective date of this Act.

3. The Commissioner of Economic and Community Development on behalf of the Natural Areas Program has the authority to enter into contracts or agreements or to apply for grants, modification to grants or money as may be necessary to conduct the work of the Natural Areas Program within the Department of Economic and Community Development. This Act may not be construed to violate any requirements of a granting agency.

4. All balances of funds, transfers, revenues or other available funds in an account or subdivision of an account of the Critical Areas Program of the State Planning Office or the Natural Heritage Program of the Department of Economic and Community Development must be reallocated or reappropriated to the Natural Areas Program within the Department of Economic and Community Development by the State Controller.

5. Subject to the Civil Service Law, any positions authorized and allocated to the Maine Natural Heritage Program of the Department of Economic and Community Development are transferred to the Natural Areas Program within that same department and may continue to be authorized.

6. All records, property, and equipment previously belonging to or allocated for the use of the Critical Areas Program of the State Planning Office or the Maine Natural Heritage Program of the Department of Economic and Community Development become the property of the Natural Areas Program on the effective date of this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except sections 9 to 14 and 16 take effect on July 1, 1993.

Effective May 6, 1993, unless otherwise indicated.

CHAPTER 93

H.P. 208 - L.D. 270

An Act to Mandate Suspension of a Minor's Operator's License for Possession of Alcohol in a Motor Vehicle

balance of this account after these allocations must be redeposited in the Maine Dairy Farm Stabilization Fund for distribution to producers.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Agricultural Production		
All Other		\$45,228
Provides funds for administration of the Maine dairy farm stabilization program and for general operating costs incurred to enforce and verify standards for the certification trademark for milk and milk products.		
Public Services - Agriculture		
All Other	\$25,000	\$25,000
Provides funds for general operating costs of the milk inspection program.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	\$25,000	\$70,228

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except that the provisions that amend the Maine Revised Statutes, Title 36, sections 4543 and 4544 and the allocation section take effect on May 1, 1994.

Effective April 12, 1994, unless otherwise indicated.

CHAPTER 664

S.P. 730 - L.D. 1951

An Act to Consolidate and Streamline the Functions of Maine Government in Conformity with the Provisions of the Texas Low-Level Radioactive Waste Disposal Compact

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

Whereas, this legislation streamlines the regulatory functions of the State and alters the regulation of radioactive waste in the State; and

Whereas, the changes would be beneficial to the State if made immediately; and

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

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

Sec. 1. 5 MRSA §12004-F, sub-§13, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 5 MRSA §12004-I, sub-§24-D, as renumbered by RR 1991, c. 2, §15, is repealed.

Sec. 3. 5 MRSA §12004-J, sub-§2, as corrected by RR 1993, c. 1, §14, is repealed.

Sec. 4. 5 MRSA §12004-J, sub-§2-A is enacted to read:

<u>2-A.</u>	<u>Advisory</u>	<u>Legislative</u>	<u>38</u>
<u>Environment</u>	<u>Commission</u>	<u>Per Diem</u>	<u>MRSA</u>
	<u>on Radioac-</u>		<u>§1453-A</u>
	<u>tive Waste</u>		

Sec. 5. 22 MRSA §565-A is enacted to read:

§565-A. Coordination with State Radiation Control Agency

The Health and Environmental Testing Laboratory shall provide laboratory services for environmental testing and analysis as necessary to implement the radiation protection services of the department conducted pursuant to section 680, subsection 2, paragraph D. Each nuclear power plant shall pay a fee to the Health and Environmental Testing Laboratory to the special revenue account established in section 568 to carry out the purposes of this section. The fee is \$90,000 annually.

Sec. 6. 22 MRSA §664, sub-§5, as amended by PL 1987, c. 882, §2, is further amended to read:

5. Fees. Each nuclear power plant licensee whose operations are monitored under this chapter shall pay a fee to the State Nuclear Safety Inspector to the permanent fund established in section 680, subsection 7. The fee shall must take the form of a yearly

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payment indicated in this subsection for the fiscal year from the fund established in section 680, subsection 7, for the full cost of the on-site inspection program, including the cost to the State for personnel and fringe benefits.

The State Nuclear Safety Inspector fee shall be \$80,000 is \$100,000 annually.

Sec. 7. 22 MRSA §675-A is enacted to read:

§675-A. Advisory Committee on Radiation

1. Appointment. The Governor shall appoint an Advisory Committee on Radiation consisting of 7 members. One member must be a physician and one member must be a dentist, both of whom must be regularly involved in the medical use of radiation; one member must represent the general public and the remaining 4 members must have training and experience in the various fields in which sources of radiation are used. Members of the committee serve 5-year staggered terms and are not compensated for their services, but may be reimbursed for actual expenses to attend committee meetings or for authorized business of the committee.

2. Duties. The committee shall make recommendations to the commissioner and furnish advice that is requested by the department on matters relating to the regulation of sources of radiation including enforcement actions, regulation revision and the establishment of fees. The committee may also make recommendations and reports to the joint standing committees of the Legislature.

Sec. 8. 22 MRSA §676, sub-§4, as amended by PL 1987, c. 519, §6, is further amended to read:

4. Radioactive waste. The Department of Environmental Protection Human Services shall coordinate management of and shall serve as point of contact with the United States Nuclear Regulatory Commission for high-level and low-level radioactive wastes, in consultation with the Department of Environmental Protection, the State Nuclear Safety Advisor in fulfillment of his duties pursuant to Title 25, sections 51 and 52, and the State Nuclear Safety Inspector in fulfillment of his duties pursuant to chapter 159-A section 666.

Sec. 9. 22 MRSA §679, as enacted by PL 1983, c. 345, §§13 and 14, is amended to read:

§679. Low-level radioactive waste disposal

State regulation of low-level radioactive waste disposal shall be subject to the primary jurisdiction of the Department of Environmental Protection Human Services, as specified in Title 38 section 676, except that disposal of low-level radioactive waste in

the State is also subject to regulation by the Department of Environmental Protection.

Sec. 10. 22 MRSA §§679-A to 679-C are enacted to read:

§679-A. Low-level radioactive waste management

1. Designated. The department is designated as the agency to fulfill the state regulatory and enforcement requirements for the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The department shall also execute the administrative requirements of the compact as defined in subsection 2, paragraph B.

2. Duties of the department. The department shall:

A. Develop rules to fulfill the State's responsibilities and requirements for the compact pursuant to the contract requirements set forth in Article IV, Section 4.05, subsections (1) to (4), (6) and (8) of the compact.

B. Provide for the disbursement of funds from the Radioactive Waste Fund to fulfill the requirements of Article IV, Section 4.05, subsection (6) of the compact, to compensate the state commission member and to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A; and

C. Report annually to the Advisory Commission on Radioactive Waste on its activities pertaining to this section.

3. Employees. To fulfill the requirements of this section, the department may employ staff subject to the Civil Service Law.

§679-B. Radioactive Waste Fund

1. Establishment. There is established the Radioactive Waste Fund to be used to carry out the purposes of this chapter. Money allocated from this fund must be administered by the commissioner in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to ensure safe and effective low-level radioactive waste management and to monitor and evaluate plans for storage and disposal of high-level radioactive waste.

2. Service fee; ceiling. Except for waste that is exempt in accordance with subsection 4, the department shall assess annually by September 1st each low-level radioactive waste generator a service fee on all low-level radioactive waste generated in this State that is shipped to a low-level radioactive waste disposal facility, stored awaiting disposal at such a

facility or stored for any other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of \$100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section can not be reassessed for the purposes of this section. The radiation control program within the Division of Health Engineering shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section. The revenue from this service fee each year must amount to \$260,000 and must be credited to the fund established in subsection 1 and used to carry out the purposes of this section and of Title 38, section 1453-A. If the Advisory Commission on Radioactive Waste, as established in Title 38, section 1453-A is dissolved, the service fee ceiling must be lowered by the amount of the budget of that commission.

3. Compact fee assessment; ceiling. In addition to the service fee assessed under subsection 2, the commissioner shall annually by September 1st, beginning in 1994, assess any amount necessary to fulfill the payment requirements to the Texas Low-Level Radioactive Waste Disposal Compact Commission pursuant to section 679-A, subsection 2, paragraph B less any balance carried forward under subsection 6. The commissioner shall assess each generator such a fee using the same method for computing individual assessments as set out in subsection 2. Each generator must pay the fee within 30 days, except that any generator may choose to make quarterly payments instead.

4. Fee exemptions. The following types of low-level radioactive waste are exempt from the fees established in subsections 2 and 3:

A. Waste that is authorized by the United States Nuclear Regulatory Commission for disposal without regard to its radioactivity;

B. Waste that is authorized by the United States Nuclear Regulatory Commission to be stored at the site of generation for decay and ultimate disposal without regard to its radioactivity; and

C. Radioactive waste or other material that is returned to the vendor, including, but not limited to, sealed sources.

5. Allocation from fund. Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature for the following purposes: to the Radioactive Waste Advisory Commission Fund as established in Title 38, section 1454-A to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A for advisory and public information activities; and to the department for regulatory activities as described in this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 679-A, subsection 2. The money received by the department from federal sources may not be counted toward the ceiling established in subsection 2.

6. Balance carried forward. Any unexpended balance in the Radioactive Waste Fund may not lapse, but must be carried forward in the same amount for the next fiscal year and must be available for the purposes authorized by this chapter.

7. Financial reports. The department shall report annually before February 1st to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the income to and expenditures from the Radioactive Waste Fund for the previous year and on the budget for the coming year. Those reports must include total fees received from each generator, line item detail on expenditures including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for the department and transfer of funds under subsection 8.

8. Transfer of funds. Notwithstanding Title 5, section 1585, funds allocated under this section must be transferred as necessary to accomplish the purposes of this section and Title 38, chapter 14-A from the department to other agencies, including the Department of Environmental Protection, the State Planning Office, the Maine Geological Survey and the Maine Land Use Regulation Commission.

Sec. 11. 22 MRSA §680, sub-§1, as amended by PL 1991, c. 496, §4, is further amended to read:

1. Nuclear power plants. The annual registration fee for operating nuclear power plants is \$138,000 for fiscal year 1991-92 and \$100,000 per year in subsequent fiscal years \$80,000.

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Sec. 12. 36 MRSA §271, sub-§2, ¶A, as amended by PL 1987, c. 530, §2, is further amended to read:

A. Hear and determine appeals according to the following provisions of law:

- (1) The tree growth tax law, chapter 105, subchapter II-A;
- (2) The farm and open space law, chapter 105, subchapter X;
- (3) As provided in section 843;
- (4) As provided in section 844;
- (5) Section 272; and
- (6) Section 2865; and
- (7) Title 38, section 1505;

Sec. 13. 38 MRSA §1451, sub-§3-A, as amended by PL 1985, c. 737, Pt. A, §114, is further amended to read:

3-A. Commission. "Commission" means the Advisory Commission on Radioactive Waste established by section 1453-A.

Sec. 14. 38 MRSA §1453, as amended by PL 1993, c. 92, §17, is repealed.

Sec. 15. 38 MRSA §1453-A is enacted to read:

§1453-A. Advisory Commission on Radioactive Waste

1. Establishment; purpose. The Advisory Commission on Radioactive Waste, referred to in this section as the "commission," is established. The commission shall advise the Governor, the Legislature and other pertinent state agencies and entities on matters relating to radioactive waste management and provide information to the public and create opportunities for public input in order to facilitate public understanding of radioactive waste issues.

2. Membership; appointment. The commission consists of 16 members, appointed as follows:

- A. The commissioner or the commissioner's designee;
- B. The Commissioner of Human Services or the commissioner's designee;
- C. The State Geologist or a designee;

D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor;

E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

F. Three Senators, appointed by the President of the Senate, 2 belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the 2nd largest number of seats in the Senate;

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, 2 belonging to the political party holding the largest number of seats in the House of Representatives and one belonging to the political party holding the 2nd largest number of seats in the House of Representatives; and

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives.

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed by the Speaker of the House of Representatives expire December 31st of odd-numbered years. The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire December 31st of even-numbered years. Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.

3. Duties. The duties of the commission are to:

- A. Provide opportunities for public input and disseminate information to the general public

and promote public understanding concerning the management of radioactive waste;

B. Study the management, transportation, treatment, storage and disposal of radioactive waste, including high-level and low-level radioactive waste and mixed waste, generated in this State;

C. Monitor methods, criteria and federal time-tables for siting and constructing high-level radioactive waste repositories or storage facilities;

D. Monitor the Texas siting effort and Texas Low-Level Radioactive Waste Disposal Compact Commission activities and, if events require, propose legislation to reinstitute an in-state siting effort for the storage or disposal of low-level radioactive waste in the State;

E. Advise the Governor, the Legislature, the department and the Department of Human Services or their successors, the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission and other pertinent state agencies and entities, as appropriate, on relevant findings and recommendations of the commission;

F. Receive a written report from the State's member of the Texas Low-Level Radioactive Waste Disposal Compact Commission within 60 days after a meeting of that commission or an oral report from that member at the next scheduled meeting of the Maine Commission on Radioactive Waste, whichever comes first; and

G. Prepare a newsletter recording developments relevant to radioactive waste issues.

4. Meetings and reports. The commission shall meet at least 4 times a year. The commission shall submit an annual report of activities to the Governor, the President of the Senate, the Speaker of the House of Representatives and the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters by February 15th of each year.

5. Compensation. Members of the commission are entitled to legislative per diem in compensation for attendance at commission meetings in accordance with the provisions of Title 5, chapter 379, except that all legislative members of the commission must obtain prior approval of out-of-state travel from their respective presiding officers.

6. Staff assistance. The department shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and

the Public Advocate shall provide consultation as requested.

7. Repeal. This commission is subject to review and terminates in accordance with Title 3, chapter 33, not including the grace period, no later than June 30, 1999, unless continued or modified by law.

Sec. 16. 38 MRSA §1454, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §270, is repealed.

Sec. 17. 38 MRSA §1454-A is enacted to read:

§1454-A. Radioactive Waste Advisory Commission Fund

1. Establishment. There is established the Radioactive Waste Advisory Commission Fund to be used to carry out the purposes of this chapter. Money allocated to the commission and to the Department of Environmental Protection from this fund must be administered by the Commissioner of Environmental Protection in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to carry out the functions of the Advisory Commission on Radioactive Waste as set forth in section 1453-A.

2. Allocation. Money in the fund established by this section must be allocated from time to time by the Legislature to the department to fund advisory and public information activities of the commission. These amounts shall become available in accordance with Title 5, chapters 141 to 155.

The commission may receive and expend federal grants and payments for the purpose of carrying out its duties.

3. Balance carried forward. Any unexpended balance does not lapse, but must be carried forward to the same fund for the next fiscal year and must be available for the purposes authorized by this chapter.

4. Financial reports. The commissioner shall report quarterly to the Advisory Commission on Radioactive Waste and annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the expenditures from the Radioactive Waste Advisory Commission Fund for the previous fiscal year and on the budget for the coming year. Those reports must include line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for

(13)

the commission and transfers of funds under subsection 5.

5. Transfer of funds. Notwithstanding Title 5, section 1585, funds allocated under this section may be transferred as necessary to accomplish the purposes of this chapter from the Department of Environmental Protection to other agencies, including the Maine Geological Survey, Maine Land Use Regulation Commission, Division of Health Engineering and the State Planning Office.

Sec. 18. 38 MRSA §1481, as enacted by PL 1985, c. 705, §5, is repealed.

Sec. 19. 38 MRSA c. 14-B, as amended, is repealed.

Sec. 20. 38 MRSA c. 14-C is enacted to read:

CHAPTER 14-C

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

§1545. Assessment for compact costs

The State Planning Office shall assess any nuclear plant within the State for the full costs of membership and participation in the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this section as the "compact," subject to the provisions of subsection 405(5) of Articles IV and V of that agreement. The assessments charged to the nuclear power plant and passed on through wholesale rates to retail utilities are considered just and reasonable operating costs for retail utilities in this State and may be deferred for recovery in future rate proceedings, except that refunds received by the nuclear power plant under subsection 6 must be credited against costs recoverable under this paragraph. Assessments billed pursuant to this section must be forwarded to the Texas Low-Level Radioactive Waste Disposal Authority.

1. Initial assessments. The State Planning Office shall bill an initial assessment in the amount of \$12,500,000 within 30 days following ratification of the compact agreement by the Congress of the United States. The amount assessed must be paid within 15 days of assessment. Any amounts received by the State Planning Office from a self-insurance fund and the Low-level Radioactive Waste Facility Fund established pursuant to sections 1535 and 1540 must be credited toward this assessment.

The State Planning Office shall bill a 2nd assessment in the amount of \$12,500,000 within 30 days following the date of the opening of the compact facility in

Texas. The amount assessed must be paid within 15 days of assessment.

2. Host county assessments. The State Planning Office shall bill an initial host county assessment in accordance with Article IV, Section 4.05, subsection (5) of the compact in the amount of \$1,250,000 no later than 3 working days following ratification of the compact agreement by the Congress of the United States. The amount assessed must be paid within 10 days of assessment.

The State Planning Office shall bill a 2nd host county assessment in the amount of \$1,250,000 no later than 3 working days following the approval of a facility operating license by the Texas Water Commission or its successor agency.

3. Pro rata shares of compact commission's operating budget. On an annual basis or on any other schedule established by the Texas Low-Level Radioactive Waste Disposal Compact Commission, the State's share of the administrative, legal and other expenses budgeted for the operation of the compact commission must be assessed by the Department of Human Services pursuant to Title 22, section 679-A.

4. Limitation. Any payment under the compact must be paid from funds available as a result of assessments levied pursuant to this section. In the event that sufficient funds are not available from those assessments, payments may not be made for this purpose from the General Fund or any other state account without specific legislative approval. A fee may not be charged for an indirect cost rate or as a handling charge by any agency of the State during the time that the funds are in the possession of the State Planning Office.

5. Alternative payment schedule. In accordance with Article V, Section 5.02 of the compact agreement and if so designated by the Texas Low-Level Radioactive Waste Disposal Compact Commission, the schedule for assessments by the State Planning Office to be forwarded to the Texas Low-Level Radioactive Waste Disposal Authority under this section must be revised to conform to the payment schedule for the repayment of debt incurred for the construction of the Texas disposal facility. An amount may not be assessed pursuant to this subsection on less than 30 days' notice and a payment may not be required in less than 15 days from the date of assessment.

6. Surcharge. Beginning on June 30 of the first year following commencement of operations at the compact facility, the Department of Human Services pursuant to Title 22, section 679-A shall assess a surcharge for waste disposed of by any generator who has not been assessed for compact cost pursuant

to subsections 1 and 2. The surcharge must be refunded to any generator who was assessed and made payments pursuant to subsections 1 and 2. The surcharge must be assessed based on a 30-year facility life and be based on the amount of waste disposed of at the compact facility in the previous calendar year. The Department of Human Services shall adopt rules to govern the calculation of the surcharge so that each generator is assessed pro rata shares of the cost of the assessment under subsections 1 and 2.

Sec. 21. Transition; advisory commission.

The Advisory Commission on Radioactive Waste is not dissolved in this Act, but continues with the changes set forth in this Act. Except for the representative of the Executive Department, members appointed to the commission as it was established in the Maine Revised Statutes, Title 38, former section 1453 must continue to serve until their terms expire in accordance with section 1453-A as enacted in this legislation. The Governor shall appoint 2 public members and a representative of a commercial nuclear power facility situated in the State to fill terms that expire in accordance with the provisions of section 1453-A.

Sec. 22. Transition provisions. The following actions are necessary to carry out the purposes of this legislation.

1. No later than June 30, 1994:

A. All amounts invested in a self-insurance fund established pursuant to the Maine Revised Statutes, Title 38, section 1540, subsection 4 must be transferred to the State Planning Office for the purpose of partial fulfillment of the assessment pursuant to Title 38, section 1545 and the self-insurance fund is terminated and ceases to exist. These amounts in the possession of the State Planning Office are subject to the requirements of Title 38, section 1545, subsection 4;

B. The balance of the fund for facility construction established pursuant to Title 38, section 1535 must be transferred to the State Planning Office for the purpose of partial fulfillment of the assessment pursuant to Title 38, section 1545. These amounts in the possession of the State Planning Office are subject to the requirements of Title 38, section 1545, subsection 4;

C. The remaining balance, if any, of all financial accounts in the possession of the Maine Low-level Radioactive Waste Authority must be transferred to the Radioactive Waste Fund in the Department of Human Services and must be deducted from the amount of the Radioactive Waste Fund assessment for fiscal year 1994-95; and

D. Any balance in the Radioactive Waste Evaluation Fund established under Title 38, former section 1454 must be transferred to the Radioactive Waste Advisory Commission Fund in the Department of Environmental Protection for the use of the Advisory Commission on Radioactive Waste. The total amount of the transferred funds must be used to reduce the assessment by the Department of Human Services for the Radioactive Waste Fund for fiscal year 1994-95.

2. The Maine Low-level Radioactive Waste Authority will cease operations and terminate the employment of all personnel when it has completed the transfer of all funds as required in this Act and all data, records and documents to a proper archive and the transfer of all equipment as follows:

A. One computer and office furniture to the radiation control program within the Department of Human Services;

B. Any remaining computers, as needed, and its library to the Advisory Commission on Radioactive Waste; and

C. All remaining assets, equipment and property to be sold with all proceeds to be transferred to the Radioactive Waste Fund established by the Maine Revised Statutes, Title 22, section 679-B.

Sec. 23. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Radioactive Waste Evaluation Fund

Personal Services	(\$2,000)
All Other	(23,219)

TOTAL	(\$25,219)
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Provides for the deallocation of funds to reflect the repeal of the Radioactive Waste Evaluation Fund.

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**Technical Studies - Department
of Environmental Protection**

Positions - Other Count	(-2.0)
Personal Services	(\$93,019)
All Other	(49,097)

TOTAL	(\$142,116)
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Provides for the deallocation of funds to reflect the repeal of the Radioactive Waste Evaluation Fund and the reestablishment of the Technical Studies program as a part of the new Advisory Commission on Radioactive Waste.

**Advisory Commission on
Radioactive Waste**

Positions	(2.0)
Personal Services	\$93,019
All Other	39,981
Capital Expenditures	2,000

TOTAL	\$135,000
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Provides for the allocation of funds to establish one 1/2-time Clerk Typist III position, one 1/2-time Planning and Research Associate I position and one Environmental Specialist IV position and general operating costs for the former Technical Studies program, which is reestablished as a part of the new Advisory Commission on Radioactive Waste.

**DEPARTMENT OF
ENVIRONMENTAL
PROTECTION
TOTAL**

(\$32,335)

EXECUTIVE DEPARTMENT**State Planning Office**

All Other	\$15,000,000
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Provides for the allocation of funds to implement the Texas Low-Level Radioactive Waste Disposal Compact.

**EXECUTIVE DEPARTMENT
TOTAL**

\$15,000,000

**HUMAN SERVICES,
DEPARTMENT OF****Health - Bureau of**

Positions - Other Count	(1.5)
Personal Services	\$51,403
All Other	38,597

TOTAL	\$90,000
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Provides for the allocation of funds including one Chemist II position and one part-time Lab Technician II position to the Public Health Laboratory to provide radiation protection services.

Health - Bureau of

Positions - Other Count	(2.0)
Personal Services	\$65,000
All Other	52,000
Capital Expenditures	8,000

TOTAL	\$125,000
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Provides for the allocation of funds including one Assistant Engineer position and one Clerk Typist III position to fulfill the state regulatory and enforcement requirements of the Texas Low-Level Radioactive Waste Disposal Compact.

DEPARTMENT OF HUMAN
SERVICES

TOTAL \$215,000

TOTAL ALLOCATIONS \$15,182,665

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except that the portions of this Act that repeal the Maine Revised Statutes, Title 38, chapter 14-B and section 1454 and enacts Title 38, chapter 14-C and section 1454-A take effect July 1, 1994.

Effective April 12, 1994, unless otherwise indicated.

CHAPTER 665

S.P. 747 - L.D. 1976

An Act Relating to Pardons

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

Whereas, people are adversely affected by the continued listing of convictions for which they have received full and free pardons; and

Whereas, the people adversely affected need to have their records corrected as soon as possible; and

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

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

Sec. 1. 15 MRSA §2167 is enacted to read:

§2167. References to pardoned crime deleted from Federal Bureau of Investigation's identification record

In any criminal case in which the Governor grants a convicted person a full and free pardon, that person, after the expiration of 10 years from the date the person is finally discharged from any sentence imposed as a result of the conviction, may make written application to the State Bureau of Identification to have all references to the pardoned crime deleted from the Federal Bureau of Investigation's identification record. Following receipt of an appli-

cation, the State Bureau of Investigation shall make the necessary arrangements with the identification division of the Federal Bureau of Investigation to have all references to the pardoned crime deleted from the Federal Bureau of Investigation's identification record and any state materials returned to the contributing agency if the application is timely and the person has not been convicted of a crime in this State or any other jurisdiction since the full and free pardon was granted and has no formal charging instrument for a crime pending in this State or any other jurisdiction.

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

Effective April 12, 1994.

CHAPTER 666

H.P. 1451 - L.D. 1980

An Act to Make Maine Law
Consistent with the Federal Law
Regarding the Omnibus Budget
Reconciliation Act of 1993 and to
Clarify Maine Laws Regarding
Underwriting and Continuity

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

PART A

Sec. A-1. 24 MRSA §2318, sub-§1, as enacted by PL 1991, c. 200, Pt. B, §1, is repealed and the following enacted in its place:

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent children" means children who are under 19 years of age and are children, step-children or adopted children of, or children placed for adoption with, the subscriber, member or spouse of the subscriber or member.

B. "Placed for adoption" means the assumption and retention of a legal obligation by a person for the total or partial support of a child in anticipation of adoption of the child. If the legal obligation ceases to exist, the child is no longer considered placed for adoption.

Sec. A-2. 24 MRSA §2318, sub-§5 is enacted to read:

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2. The facility continues to meet nursing facility licensing rules; and

3. The facility meets all hospice licensing standards except the requirement that inpatient services be offset with a specified level of in-home services.

This section is repealed ~~January~~ July 1, 1996.

Sec. 3. Rulemaking. Beginning July 1, 1996 the rules and principles of reimbursement for inpatient hospice services through Medicaid must be consistent with the requirements of the Medicare program as long as reasonable and adequate inpatient hospice services for hospice patients that are Medicaid eligible but not Medicare eligible will be reimbursed under the Medicaid program.

See title page for effective date.

CHAPTER 487

S.P. 194 - L.D. 503

An Act Regarding Fees Assessed by the Maine Land Use Regulation Commission for Changes within a Development District

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

Sec. 1. 12 MRSA §685-B, sub-§2, ¶B, as amended by PL 1993, c. 410, Pt. U, §1, is further amended to read:

B. The fee prescribed by the commission rules, that fee to be a minimum of \$50 but no greater than 1/4 of 1% of the total development costs, except that the fee for subdivision applications is \$300 per lot. Zoning petitions submitted by other than a state or federal agency range from \$50 to \$500 depending on size and complexity. The fees apply to all amendments except for minor changes to building permits. A fee may not be assessed for a petition that seeks to change an area's designation under section 685-A from a management district to a development district;

See title page for effective date.

CHAPTER 488

H.P. 959 - L.D. 1348

An Act to Reform the Process of Periodic Review of Programs and Agencies

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

Sec. 1. 3 MRSA c. 33, as amended, is repealed.

Sec. 2. 3 MRSA c. 35 is enacted to read:

CHAPTER 35

STATE GOVERNMENT EVALUATION

§951. Short title

This chapter may be known and cited as the "State Government Evaluation Act."

§952. Scope

This chapter provides for a system of periodic review of agencies and independent agencies of State Government in order to evaluate their efficacy and performance. Only those agencies, independent agencies or parts of those agencies and independent agencies that receive support from the General Fund or that are established, created or incorporated by reference in the Maine Revised Statutes are subject to the provisions of this chapter. The financial and programmatic review must include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, statutory mandate and fiscal accountability.

§953. Definitions

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

1. Agency. "Agency" means a governmental entity subject to review pursuant to this chapter, but not subject to automatic termination.

2. Committee or committee of jurisdiction. "Committee or committee of jurisdiction" means the joint standing committee of the Legislature having jurisdiction over the same policy and substantive matters as an agency subject to review under this chapter.

3. Independent agency. "Independent agency" means a governmental entity subject to review and to termination pursuant to this chapter.

§954. Designation by legislative policy committee

1. Authorization. On or before April 1st of any first regular session, the committee of jurisdiction shall review the list of agencies scheduled for review in section 959.

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(1) Public Advocate in 1997:

(2) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency in 1999; and

(3) Public Utilities Commission in 1999.

2. Waiver. Notwithstanding this list of agencies arranged by year, an agency or independent agency may be reviewed at any time by the committee pursuant to section 954.

§960. Future or reorganized agencies and independent agencies

The chief staff administrator of a newly created or substantially reorganized agency or independent agency shall contact the committee to ensure placement of that agency or independent agency in the scheduling guideline outlined in section 959. The committee and the Legislative Council shall determine the placement of that agency or independent agency in the scheduling guideline.

§961. Legislative Council

The Legislative Council shall issue rules necessary for the efficient administration of this chapter and shall provide the committees of jurisdiction with assistance as required to carry out the purposes of this chapter.

§962. Legal claims

Termination, modification or establishment of agencies or independent agencies as a result of the review required by this chapter does not extinguish any legal claims against the State, any state employee or state agency or independent agency. The provisions of this chapter do not relieve the State or any agency or independent agency of responsibility for making timely payment of the principal and interest of any debt issued in the form of a bond or note.

§963. Review

The joint standing committee of the Legislature having jurisdiction over state and local government matters shall review the provisions and effects of this chapter no later than June 30, 2000 and at least once every 10 years after June 30, 2000.

Sec. 3. 5 MRSA §13063, sub-§6, ¶D, as enacted by PL 1993, c. 430, §1, is amended to read:

D. A joint standing committee of the Legislature that recommends legislation that involves a new permit for retail businesses shall indicate in the legislation whether the permit is to be included in the municipal centralized permitting program.

During a review under Title 3, chapter 33 35 of a permit issuing agency, the joint standing committee having responsibility for the review shall recommend whether any of the permits issued by that agency should be included in the municipal centralized permitting program.

Sec. 4. 32 MRSA §94, as amended by PL 1991, c. 588, §26, is further amended to read:

§94. Sunset

The operations and conduct of Maine Emergency Medical Services must be reviewed in accordance with the Maine Sunset Act, Title 3, chapter 33 35, no later than June 30, 2003.

Sec. 5. 38 MRSA §1453-A, sub-§7, as enacted by PL 1993, c. 664, §15, is amended to read:

7. Repeal. This commission is subject to review and terminates in accordance with Title 3, chapter 33 35, not including the grace period, no later than June 30, 1999, unless continued or modified by law.

See title page for effective date.

CHAPTER 489

H.P. 270 - L.D. 372

An Act to Appropriate Funds for the Expansion and Renovation of the Norway Armory

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

Sec. 1. 5 MRSA §1513, sub-§1-F is enacted to read:

1-F. Transfer from Maine Rainy Day Fund: armory expansion and renovation. Notwithstanding section 1585, an amount of \$500,000 in fiscal year 1995-96 may be transferred from the available balance in the Maine Rainy Day Fund to the "Capital Construction - Repairs - Improvements" account in the Department of Defense and Veterans' Services to be made available by financial order upon the recommendation of the State Budget Officer and approval of the Governor to be used for the State's matching share of the costs of expansion and renovation of the Norway Armory.

See title page for effective date.

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